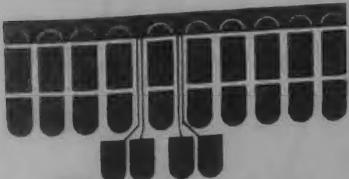


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ATARI, INC.,)
a Delaware corporation, and)
MIDWAY MFG., CO.,)
an Illinois corporation,)
Plaintiffs,)
vs.) CIVIL ACTION
NORTH AMERICAN PHILIPS CONSUMER) NO. 81 C 6434
ELECTRONICS CORP.,) VOLUME I
a Tennessee corporation, and)
PARK TELEVISION d/b/a/ PARK MAGNAVOX)
HOME ENTERTAINMENT CENTER,)
an Illinois Partnership, and)
ED AVERETT,)
an individual.)
Defendants.)

DEPOSITION OF HIDEYUKI NAKAJIMA



WILLIAM TALTY C.S.R.
A PROFESSIONAL CORPORATION
2131 THE ALAMEDA, SUITE D, SAN JOSE CALIF. 95126 TEL. (408) 244-1000

BE IT REMEMBERED: That pursuant to Subpoena in re deposition and on Wednesday, the 10th day of August 1983, commencing at the hour of 10:20 a.m. of said day, before me, Marcia Lynne Hunter, C.S.R., License Number C-2801, a Notary Public, personally appeared HIDEYUKI NAKAJIMA, called as a witness herein, at the law offices of Pillsbury, Madison & Sutro, 333 West Santa Clara Street, San Jose, California, and being by me first duly sworn, was examined as a witness in said cause.

ENTERTAINMENT CENTER * * * WILLIAM TALTY, ATTORNEY AND
and Ed Knutson

WILLIAM TALTY, ATTORNEY AND
and Ed Knutson

5 West Washington Street
Chicago, Illinois 60602

By: JAMES T. WILLIAMS,
Co-Counsel, and

INDEX OF DEFENDANTS' EXHIBITS

Exhibit

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112	A two-page NAMCO memorandum, dated January 13, 1983, from Hideyuki Nakajima to David Marofske	98	24
113	A two-page letter, dated February 13, 1982, from Hideyuki Nakajima to David Marofske on the NAMCO-AMERICA, Inc., letterhead	105	3
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* * *

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25 FRANK S. PHILLIPS,
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HIDEYUKI NAKAJIMA,

3

being first duly sworn by the Notary Public to tell the truth,
testified as follows:

MR. KATZ: Before you start, Mr. Alesia, I would like to note for the record that the plaintiff Bally/Midway wants to state its objection to Mr. Alesia and his firm Reuben & Proctor's representation of the party defendant in this case.

And I would like to indicate that our participation in this deposition should not, and the going forward of these proceedings, should not be construed as a waiver of our objection, based on Bally/Midway's position that the Reuben & Proctor firm has a conflict of interest in this matter.

MR. ALESIA: Well, in reply to that, we have had an evidentiary hearing on the motion to disqualify Judge George Leighton. He has ruled that the motion to disqualify was denied. Also in a minute order dated May 27th, 1983, Judge Leighton specifically indicated that discovery should proceed in this case.

MR. LIMBACH: Also, Mr. Alesia, before you proceed, may I say that NAMCO-AMERICA has produced this witness in response to the corporate subpoena. The witness' native language is Japanese. He does speak English as a second language and he's willing to give the deposition in English.

Since it is a second language for him, we request that you try to make the structure and vocabulary of your questions simple, if you can, and that the witness would like you to speak slowly. And give him an opportunity to deal with the language barrier.

EXAMINATION BY MR. ALESIA

Q Mr. Nakajima, if you don't understand any of the questions I ask you, ask me to repeat them. I'll be happy to do so or rephrase them.

A Okay.

Q Is that agreed?

A Yes.

MR. ALESIA: Let the record indicate this is the discovery of Mr. Nakajima, taken pursuant to subpoena, and pursuant to the Federal Rules of Civil Procedure. Are reading and signature of the deposition waived, Counsel?

MR. LIMBACH: I believe we would like to review the deposition and have it signed by the witness.

MR. ALESIA: All right. Ms. Reporter, the deposition will be written and submitted to the witness for his reading and signature.

Q (By Mr. Alesia) Mr. Nakajima, would you state your name and address, please?

A Hideyuki Nakajima, 2-15-5 Mejiro, Toshima-Ku, Tokyo, Japan.

Q What's your age?

A Fifty-three.

Q What is the highest level of education that you completed?

A University in Tokyo.

Q What university?

A Aoyama.

Q And did you receive a Bachelor of Science degree or the

1 equivalent of a Bachelor of Science degree?

2 A Well, the structure of the education in Japan is
3 different from that of the United States; so I don't know
4 which is -- what is equivalent and what is not.

5 Q All right. Did you graduate from the university?

6 A Yes. I worked there pretty long time.

7 Q And what was your major? ~~here, what was your job title?~~

8 A English literature.

9 Q And your minor? ~~What did you do for them?~~

10 A I don't remember.

11 Q All right. Are you a Japanese citizen still?

12 A Yes. ~~Don't remember.~~

13 Q Now, after you graduated from the university, for whom
14 did you first work? ~~developing -- development and research of~~

15 A Let's see, after my graduation from the university.

16 Q Yes. ~~How long were you in the Research and Development~~

17 A ~~at~~ Kanagawa Medical Laboratory.

18 Q What did you do for them? ~~Oh, five years, six years,~~

19 A Administration, translation, that sort of stuff.

20 Q You say "translation." Did you study English at the
21 university? ~~at the school fifteen years, sixteen years.~~

22 A Yes, I did. ~~in the Research and Development.~~

23 Q How long did you work there?

24 A I don't remember exactly. Three years. ~~of marketing.~~

25 Q Who was your next employer? ~~ing or the Research and~~

26 A Nihon Kakoseishi.

27 Q What business were they in? ~~part of marketing.~~

28 A Paper manufacturing.

1 Q What did you do for them?

2 A I was working in -- mainly in the sales area, both
3 domestic and international.

4 Q What was your job title there? Were you an ordinary
5 salesman or a manager?

6 A When? I worked there pretty long time.

7 Q When you first started there, what was your job title?

8 A Kaihatsu-Bu.

9 Q Which is what? What did you do for them?

10 A Sales.

11 Q And how long were you a salesman for them?

12 A I wasn't a salesman.

13 Q All right. What did you do in the Sales Department?

14 A Development -- developing -- development and research of
15 the market.

16 Q And how long were you in the Research and Development
17 Department?

18 A I don't know. I don't know. Oh, five years, six years,
19 ten years, something like that.

20 Q How long did you work for them total?

21 A I believe it was about fifteen years, sixteen years.

22 Q Were you always in the Research and Development
23 Department for them?

24 A No. This is research and development of marketing.

25 Q Were you more in the marketing or the research and
26 development aspect?

27 A This is research and development of marketing.

28 Q Of marketing.

1 A Yeah. 7

2 Q And did your job duties change during your time working
3 for that company?

4 A Yeah.

5 Q All right. Tell me when you first went there, were you
6 in sales; is that correct?

7 A No, there's no such definite definition, that you are
8 sales or you are this or that. This is the structure of
9 Japanese company.

10 Q The sales and marketing are together in one division?

11 A Okay. This is one big division, and I was one of them.

12 Q Were you promoted during your time there?

13 A Sure.

14 Q All right. What was your last job there? What was your
15 last job title?

16 A I don't remember.

17 Q Okay. Why did you leave there?

18 A My personal -- my personal convenience.

19 Q Who was your next employer?

20 A Atari Japan.

21 Q When did you start at Atari Japan?

22 A About ten years ago.

23 Q How did you happen to go to Atari Japan?

24 A Well, somebody was looking for a general manager at Atari
25 Japan, and I applied for it and got a job.

26 Q Did somebody come over from the United States and
27 interview you or were you interviewed by a Japanese citizen?

28 A I don't remember what he was -- his nationality was.

1 Q And did somebody make the entree for you with Atari
2 Japan? ~~to president.~~

8

3 A What's "entree"?

4 Q Did somebody tell you that they were looking for a
5 manager at Atari Japan?

6 A Yeah. ~~MR. SPRINGER: Objection. It's without foundation.~~

7 Q Who was that? ~~MR. SPRINGER: Objection. Who owned Atari Japan?~~

8 A One of the lawyers I know -- I used to know. I still
9 know him. ~~It's a private-held company or was it a public~~

10 Q CorpIn Japan?

11 A Yes. ~~MR. SPRINGER: Objection. It's without foundation.~~

12 Q Was he an attorney for Atari Japan? ~~older in Atari Japan~~

13 A ~~MR. SPRINGER: Objection. I don't know.~~

14 Q What was his name?

15 A Yaginuma. ~~MR. SPRINGER: Does he have any interest in Atari Japan?~~

16 Q Now, when you first were employed by Atari Japan, were
17 you employed as a manager?

18 A I believe that was general manager.

19 Q What were your job responsibilities as general manager of
20 Atari Japan?

21 A Running Atari Japan, in general. ~~in Atari Japan?~~

22 Q Domestically? ~~MR. SPRINGER: Objection. No foundation.~~

23 A Yeah. ~~MR. SPRINGER: Right; nine years ago.~~

24 Q In Japan? ~~MR. SPRINGER: Does he still have an interest in Atari~~

25 A Yeah.

26 Q Did you have anything to do with exporting your product
27 to other countries? ~~MR. SPRINGER: No.~~

28 A No. ~~MR. SPRINGER: When did he divest himself of his~~

1 Q And who did you report to at Atari Japan? 9
2 A The president.
3 Q What was his name?
4 A Takumi.
5 Q Who owned Atari Japan?
6 MR. SPRINGER: Object. It's without foundation.
7 Q (By Mr. Alesia) Who owned Atari Japan?
8 A I don't remember.
9 Q Was it a private-held company or was it a public
10 corporation?
11 A Private.
12 Q Do you know who the majority stockholder in Atari Japan
13 was?
14 A No.
15 Q Did Masaya Nakamura have any interest in Atari Japan?
16 A When?
17 Q At any time.
18 A Yeah.
19 Q When you first went to work for him?
20 A No.
21 Q When did he acquire an interest in Atari Japan?
22 MR. SPRINGER: Objection. No foundation.
23 THE WITNESS: Eight, nine years ago.
24 Q (By Mr. Alesia) Does he still have an interest in Atari
25 Japan?
26 MR. SPRINGER: Same objection.
27 THE WITNESS: No.
28 Q (By Mr. Alesia) When did he divest himself of his

1 interest in Atari Japan?

2 A What's "divest"?

3 Q Get rid of.

4 A He didn't get rid of. He never had any interest in Atari
5 Japan.

6 Q You told me he had an interest in Atari Japan. Did he
7 have any part of the ownership of Atari Japan?

8 A No.

9 Q Ever?

10 A He did not. NAMCO did, not him.

11 Q Okay.

12 A As individual.

13 Q I see.

14 Now, you say "NAMCO." You are speaking of NAMCO, Ltd.,
15 or NAMCO-AMERICA?

16 A NAMCO, Ltd.

17 Q What was the business of Atari Japan? What did they make
18 or produce?

19 A Import -- to import, and to manufacture and to sell Atari
20 coin video -- coin-operated video games.

21 Q Did they import those from the United States?

22 A Yes.

23 Q Did they import them from any other country?

24 A I don't think so.

25 Q Once those games were imported from the United States to
26 Japan, did Atari Japan use those games exclusively in Japan,
27 or did Atari Japan also export those games to other countries?

28 MR. SPRINGER: Object. It's without foundation.

1 THE WITNESS: I believe it was for exclusively
2 Japan.

3 Q (By Mr. Alesia) All right. Are you familiar with the
4 company Kabushiki Kaishya Nakamura Manufacturing Company?

5 A I can think of a company similar to the name that you
6 have just pronounced, yes.

7 Q All right. The company similar to the name I just
8 pronounced, what business was it in?

9 A Amusement game manufacturing and operating industry with
10 the company.

11 Q Did they export from Japan to other countries?

12 A When?

13 Q At any time.

14 MR. SPRINGER: You haven't shown a foundation.

15 THE WITNESS: Export what?

16 Q (By Mr. Alesia) Their products, the video games.

17 A I didn't say video games.

18 Q Excuse me. Coin-operated games.

19 A Yes, amusement coin-operated games.

20 Q Did they export those to other countries?

21 MR. SPRINGER: There's no foundation.

22 Q (By Mr. Alesia) Amusement coin-operated games. Did they
23 export those to other countries?

24 A I believe so.

25 Q Did they export them to the United States?

26 A I don't know.

27 Q Do you know the names of any of the coin-operated games
28 that that company manufactured?

1 A Yes.

2 Q Can you tell me those names?

3 A Oh, F-1, Obaktu, and others.

4 Q Was that company we've been speaking of a privately held
5 company or a public corporation?

6 A Private.

7 Q Was Masaya Nakamura the owner of that company?

8 A What do you mean by "owner"?

9 Q Did he have the controlling interest?

10 A Yes.

11 Q Was there anyone else that had an interest in that
12 company, other than Mr. Nakamura?

13 MR. SPRINGER: Object. There's no foundation.

14 THE WITNESS: Yes.

15 Q (By Mr. Alesia) Who else had an interest in that
16 company?

17 A I do not know all the -- all other shareholders' name --
18 names.

19 Q Were there any corporations, either American or Japanese,
20 that held an interest in that company besides Mr. Nakamura?

21 A Are you talking about Nakamura Seisakojo Manufacturing
22 Company?

23 Q I am talking about the name of the company that I
24 mispronounced in Japanese, the Kabushiki Kaishya Nakamura
25 Manufacturing Company.

26 A Can I talk to -- can I talk to my attorney just a minute,
27 because your question is very difficult for me to understand
28 and to answer.

1 MR. ALESIA: Let me repeat it for you. I am going
2 to object to your consulting with your attorney.
3

4 MR. LIMBACH: I believe the witness has a right to
5 consult with his attorney any time.
6

7 MR. ALESIA: I will rephrase the question.
8

9 Q (By Mr. Alesia) Other than Mr. Nakamura that had an
10 interest in the company we have been speaking of, did any
11 other corporation, either Japanese or American, have any
12 interest or ownership in that company?
13

14 MR. LIMBACH: Mr. Nakajima --
15

16 THE WITNESS: I have to talk to you.
17

18 MR. LIMBACH: -- would you like to discuss it with
19 your counsel?
20

21 THE WITNESS: I have to, to answer that question.
22

23 MR. LIMBACH: Would you like to step out the door?
24

25 THE WITNESS: Yeah.
26

27 MR. SPRINGER: I will just restate my objection.
28 You haven't shown a foundation. There's no indication that
this witness has personal knowledge of the matters about which
he is testifying.
29

30 (Discussion off the record.)
31

32 MR. ALESIA: For the record, I renew my objection.
33 I think it's improper for the witness in the middle of a
34 deposition to consult with his attorney. I think the question
35 was not ambiguous and was very clear.
36

37 MR. LIMBACH: The witness will now clarify the
38 question and the answer.
39

40 Q (By Mr. Alesia) All right. Do you recall the question?
41

1 A No.

14

2 MR. ALESIA: Would you please read the question
3 back?

4 (Whereupon, the record was read by the
5 Notary Public.)

6 THE WITNESS: Okay. You have been saying Nakamura
7 Kabushiki Kaishya Nakamura Manufacturing.

8 MR. ALESIA: Yes.

9 THE WITNESS: That company has been reorganized and
10 changed -- changed its name to NAMCO. And if you are talking
11 about NAMCO, I can answer your question; but when you stick to
12 that former name, that was my -- there was a little confusion
13 in my mind.

14 Q (By Mr. Alesia) All right. You perceived what I was
15 going to ask you in additional questions. But again, prior to
16 the time that the company's name was changed to NAMCO, Ltd.,
17 did any corporation, either Japanese or American, have any
18 interest in that company?

19 A I don't know.

20 Q Do you know of any stockholders, other than Masaya
21 Nakamura, in that company?

22 MR. SPRINGER: When you say, "that company," Jim,
23 are you referring to --

24 MR. ALESIA: The older company.

25 MR. SPRINGER: -- the older company before it was
26 changed? Object. It's without foundation.

27 THE WITNESS: Yes.

28 Q (By Mr. Alesia) All right. Please tell me their names,

1 A Manabe, Yamaguchi, Yamada, Daira. That's it.
2 Q Are these people individuals or Japanese companies?

3 A Japanese.

4 Q Individuals?

5 A Yes.

6 Q Were any of them officers of the Nakamura company prior
7 to its name change to NAMCO, Ltd.?

8 A Would you repeat the question?

9 Q Were any of these people either officers, directors or
10 employees of the Nakamura company prior to its change to
11 NAMCO, Ltd.?

12 A They were the directors or the officers of Nakamura
13 Manufacturing.

14 Q After Nakamura Manufacturing name was changed and
15 reorganized and changed to NAMCO, Ltd., were those individuals
16 still either employees, officers or directors of the new
17 company, NAMCO, Ltd.?

18 A Some of them, yes. Some of them are not.

19 Q Are any of them at present employees, officers or
20 directors of NAMCO, Ltd.?

21 A Manabe is.

22 Q What is his title?

23 A Jomu.

24 Q Which is what? What is his position at NAMCO, Ltd.?

25 A Jomu.

26 MR. BRIODY: Chairman?

27 THE WITNESS: No, Jomu, J-o-m-u. That's a Japanese
28 word, and I don't know the equivalent title in the United

1 States corporation.

2 Q (By Mr. Alesia) What are his job responsibilities at
3 NAMCO, Ltd.?

4 MR. LIMBACH: May I hear the question again, please?
5 (Whereupon, the record was read by the
6 Notary Public.)

7 THE WITNESS: His.

8 MR. ALESIA: His job.

9 MR. SPRINGER: His who?

10 MR. ALESIA: Responsibilities.

11 THE WITNESS: Manabe's?

12 MR. ALESIA: Yes.

13 THE WITNESS: Administrative work in general.

14 Q (By Mr. Alesia) Does he have anything to do with the
15 Research and Development Department or Division?

16 A I don't think so.

17 Q Does he report to Mr. Nakamura?

18 A Yes.

19 Q Directly?

20 A Yes.

21 Q How would you characterize his position? You were
22 telling me you could not translate from Japanese to English
23 his title, but in a corporate hierarchy, where would he fit
24 in? Would he be the No. 2 man, the No. 3 man, the No. 4 man
25 at NAMCO, Ltd.?

26 A I would believe either No. 2 or No. 3, somewhere around
27 there.

28 Q As part of his job responsibilities in administration,

1 does he have anything to do with overseas exportation?
2 A No.

3 Q What was Atari Japan's relationship with Atari, Inc., if
4 any, at the time you were employed by Atari Japan?

5 A Oh, exclusive distributor of Atari in Japan for Atari's
6 coin-operated video games.

7 Q Did those two companies, were they separate companies or
8 was one a division of the other?

9 A I believe it was separate company.

10 Q Did they share any technical assistance with one another?

11 MR. SPRINGER: I think it's vague and it's also
12 without foundation.

13 THE WITNESS: What do you mean by "technical
14 assistance"?

15 Q (By Mr. Alesia). The same thing you meant when you gave
16 your deposition to the International Trade Commission, when
17 you said that they were separate, except they exchanged
18 technical assistance.

19 A I don't remember the deposition of International Trade
20 Commission. I mean, I remember it happened, but I do not
21 remember what kind of question was made and what kind of
22 answer I gave.

23 Q Okay. On Page 10 of that deposition, the question was
24 asked by the person who was asking you questions:

25 "And what was your position with NAMCO?

26 Was this NAMCO, Ltd., or NAMCO-AMERICA?"

27 Your answer:

28 "NAMCO, Ltd. Wait a minute. There's a

1 long story behind Atari Japan and NAMCO
2 and Atari U.S.A. and all those
3 connections. Maybe it's better for you to
4 give me -- for me to give you the details;
5 otherwise, you wouldn't understand.

6 "Question: Okay."

7 And your answer was:

8 "Atari wanted in 1973 -- could be 1974, I
9 don't remember exactly -- wanted to open
10 an office in Japan. Atari, Inc., decided
11 to designate a man to open Atari's Japan
12 subsidiary in Japan separate from Atari,
13 Inc. In other words, this company can
14 have the name Atari Japan; however,
15 there's no internal relationship,
16 financially or personnel-wise, except some
17 technical assistance."

18 What did you mean when you said, "Except some technical
19 assistance"?

20 MR. SPRINGER: Object to the form of the question.

21 THE WITNESS: Oh, probably sending some TV games
22 over with the operator's manual.

23 Q (By Mr. Alesia) All right. Now, who is sending the
24 games? Atari?

25 A Atari.

26 Q Inc.?

27 A Atari, Inc., to Atari Japan.

28 Q Do you know what those games were that were sent to

1 Japan?

19

2 A Pong, Pong Doubles, Space Race, Track Ten, something like
3 that.

4 Q Did you go to NAMCO, Ltd., after it was reorganized and
5 renamed NAMCO, Ltd., or did you go to work for them when it
6 was still Nakamura Manufacturing Company?

7 A After the name has changed.

8 Q Now, when you --

9 MR. SPRINGER: I move to strike all the testimony
10 related to Nakamura Manufacturing Company as being without
11 foundation.

12 Q (By Mr. Alesia) When you transferred or went to NAMCO,
13 Ltd., did you still retain the title of vice president for
14 Atari Japan?

15 A Yes.

16 Q What was Atari Japan's relationship to NAMCO, Ltd.?

17 A When?

18 Q When you went to them. When you went from Atari Japan to
19 NAMCO, Ltd.

20 A What was the relationship between --

21 Q Atari Japan and NAMCO, Ltd.

22 A Atari Japan was a one-hundred-percent owned subsidiary of
23 NAMCO.

24 Q When did they acquire Atari Japan, NAMCO, Ltd.?

25 A I don't remember exact year.

26 Q Was NAMCO -- was Atari Japan acquired after the
27 reorganization and renaming of the Nakamura Corporation to
28 NAMCO, Ltd., or was it acquired prior to the reorganization?

1 A Prior to the change of the name -- the name of the
2 company.

3 Q What interest or ownership did Masaya Nakamura have in
4 Atari Japan when he acquired it?

5 MR. SPRINGER: Objection. No foundation.

6 THE WITNESS: None.

7 Q (By Mr. Alesia) Did he have any ownership in it through
8 the Nakamura Manufacturing company?

9 MR. SPRINGER: Same objection.

10 THE WITNESS: I don't understand your question.

11 Through?

12 Q (By Mr. Alesia) Yes. He owned Nakamura Manufacturing,
13 did he not?

14 A Yeah, he's got the controlling interest.

15 Q Controlling interest.

16 A Yeah.

17 Q Then when Nakamura Manufacturing Company acquired Atari
18 Japan, did Mr. Nakamura himself have the controlling interest
19 in Atari Japan also?

20 MR. SPRINGER: Same objection.

21 THE WITNESS: He didn't have any stock of Atari
22 Japan, as an individual.

23 Q (By Mr. Alesia) So then, if I understand your
24 testimony -- correct me if I am wrong -- Atari Japan then
25 became a one-hundred percent wholly owned subsidiary of NAMCO,
26 Ltd.; is that right?

27 A Nakamura Kaishya.

28 Q Pardon?

1 A Nakamura Manufacturing Company.

2 Q And then that was reorganized into NAMCO, Ltd., the
3 manufacturing company?

4 A Exactly.

5 Q Do you recall the date of that acquisition by Nakamura
6 Manufacturing by Atari Japan?

7 A No.

8 MR. SPRINGER: Asked and answered.

9 Q (By Mr. Alesia) Could it have been around July of 1974?

10 A Somewhere around that time, yeah.

11 Q Now, you told me you retained the title of vice president
12 of Atari Japan, after the reorganization of the Nakamura
13 Manufacturing Company into NAMCO, Ltd.

14 A Uh-huh.

15 Q At that same time, did you also have a job title with
16 regard to NAMCO-AMERICA?

17 A I believe so, but I am not very sure.

18 Q What area of responsibility did you have with regard to
19 NAMCO-AMERICA?

20 A At the time. --

21 MR. LIMBACH: Counsel, I am going to object to the
22 form of the question for lack of foundation, that you haven't
23 established if NAMCO-AMERICA was in existence at the time.

24 MR. ALESIA: All right.

25 THE WITNESS: At the time of -- okay. When --
26 erase.

27 Your question is regarding when or what part of my
28 career in Atari Japan? Did you understand what I am saying?

1 Q (By Mr. Alesia) Yes. And then -- well, let me back up a
2 minute to make sure that you understood my question.
3

4 You said that you were -- Atari Japan was acquired by
5 Nakamura Manufacturing Company. Nakamura Manufacturing
6 Company subsequently was reorganized under the name NAMCO,
7 Ltd.; correct?

8 A (Witness nodding head up and down.)

9 Q You also told me when Atari Japan was acquired, you still
10 retained the title of vice president of Atari Japan.

11 Then Nakamura became manufacturing -- became reorganized
12 as NAMCO, Ltd.?

13 A (Witness nodding head up and down.)

14 Q My question to you is: At sometime did you also have job
15 responsibilities for NAMCO-AMERICA in addition to the other
two companies?

16 MR. LIMBACH: At any time prior to today? Is that
17 your question?

18 MR. ALESIA: At any time prior.

19 THE WITNESS: Any time prior to today?

20 MR. ALESIA: Yes.

21 THE WITNESS: And your question is what kind of
22 function did I have or do I have at NAMCO-AMERICA?

23 MR. ALESIA: Right.

24 MR. LIMBACH: Counsel, I think this is a good
example of my request earlier that you try to make the
25 questions simple.

26 MR. ALESIA: All right.

27 MR. LIMBACH: Could you restate the question you

1 have now?

23

2 Q (By Mr. Alesia) All right. When did you first have any
3 job responsibilities with regard to NAMCO-AMERICA?

4 A May -- between May and July, August of 1978.

5 Q Now, at that time what were your job responsibilities or
6 what was your job title for NAMCO-AMERICA?

7 A I have been the president of the company ever since the
8 company was established.

9 Q And when was it established?

10 A I told you, between May to August of 1978.

11 Q So then you assumed the title of president from the first
12 time it was organized and you continue to hold that right to
13 the present?

14 A Correct.

15 Q What is the relationship between NAMCO, Ltd. and NAMCO-
16 AMERICA?

17 A One-hundred percent owned subsidiary of NAMCO.

18 Q NAMCO-AMERICA is a hundred percent owned subsidiary of
19 NAMCO, Ltd.?

20 A Correct.

21 Q All right. When you became president of NAMCO-AMERICA in
22 the summer of 1978, as you testified, did you still retain job
23 responsibilities or title for Atari Japan and NAMCO, Ltd., so,
24 in effect, you had job responsibilities for all three
25 companies?

26 A I have never said that I retained the three job titles.

27 I told you about the titles of Atari Japan and NAMCO-AMERICA.

28 Q Now, what I am saying to you is, when you became

1 president of NAMCO-AMERICA in the summer of 1978, did you
2 still retain your title as vice president of Atari, as well?
3 A Japan.

4 Q Yes, Japan. As well as also being an officer of NAMCO,
5 Ltd.?

6 MR. LIMBACH: Counsel, I will object to the question
7 as for lack of foundation, in that you have not established
8 that prior to that time he already was an officer of NAMCO,
9 Ltd.

10 Q (By Mr. Alesia) All right. Were you an officer of
11 NAMCO, Ltd., prior to August of 1978?

12 A No, I was not.

13 Q Did you have any responsibilities with regard to NAMCO,
14 Ltd.?

15 A When?

16 Q Prior to August of 1978.

17 A No.

18 Q Were you ever an employee or officer of NAMCO, Ltd.?

19 A Yes.

20 Q When were you first an officer or employee of NAMCO,
21 Ltd.?

22 A Two or three years ago. Could be four.

23 Q When you testified and gave your deposition for the
24 International Trade Commission, you had mentioned you came
under the umbrella of NAMCO, Ltd. What did you mean by that?

25 A Atari Japan was one of the subsidiaries of NAMCO.

26 Q Okay. At some point in time, were you either an employee
27 or officer of Atari Japan, NAMCO, Ltd., and NAMCO-AMERICA at
28

1 the same time?

2 A I am now.

3 Q When did you first become an officer or employee of all
4 three corporations?

5 A Three or four years ago.

6 Q Okay.

7 A Two, three or four years ago.

8 Q Now, two or three, four years ago, when you became an
9 officer or employee of all three corporations, at that time
10 what was your job title with regard to Atari Japan? Were you
11 still vice president?

12 A I was designated as vice president of Atari Japan. I
13 don't remember exactly when, but seven or eight years ago.
14 And I have never received any notice of resignation from that
15 title, so I presume I still retain that title.

16 Q And then two or three or four years ago, when you say you
17 were an officer or employee of all three corporations, what
18 was your title at NAMCO, Ltd.?

19 A Director, Overseas Division.

20 Q And what were your job responsibilities as director of
21 the Overseas Division of NAMCO, Ltd.?

22 A Overseas activity of NAMCO, Ltd.

23 Q Is that to do with exportation of your product?

24 A Exportation of our product, that was one of them, one of
25 my responsibilities.

26 Q Were you also in charge of negotiating licenses with
27 other companies for any products that you might have?

28 A Yes.

1 Q And what, generally, are your duties as president of
2 NAMCO-AMERICA?

3 A To operate and to run the company.

4 Q You are still based in Japan, though, are you not?

5 A What do you mean by "based in"?

6 Q Your actual home residence is Japan?

7 A I have a home in Tokyo, yeah.

8 Q In any given year, where do you spend the majority of
9 your time? In the United States or in Japan?

10 A Any given year?

11 Q Yes.

12 MR. SPRINGER: Or in airplanes.

13 Q (By Mr. Alesia) In other words, you also have a home --
14 do you have a home in California or in the United States too?

15 A I do not have a home here.

16 Q Where is your family located?

17 A Tokyo.

18 Q In an average twelve-month period, how many months of the
19 year would you spend in Japan and how many months of the year
20 would you spend in the United States?

21 A Which year are you talking about?

22 Q Well, say an average year in the last five years.

23 A Last five years. Hum . . . I don't know. Fifty/fifty,
24 maybe. Sixty Japan, forty here.

25 Q All right. With regard to your position at NAMCO, Ltd.,
26 to whom do you report?

27 A With regard to what?

28 Q At NAMCO, Ltd., to whom do you report?

1 A That's a very good question. I don't know. I would
2 suppose that I report to Mr. Nakamura.

3 Q Do you report to anyone other than Mr. Nakamura?

4 MR. LIMBACH: Counsel, can you clarify your question
5 and tell the witness what you mean by the word "report,"
6 because the term report in the United States business
7 organization structure may have a definite meaning to us which
8 may not have a meaning in their business organization.

9 Q (By Mr. Alesia) Well, under your job responsibilities,
10 is there somebody that is your superior in the corporation, to
11 which you must keep advised other than Mr. Nakamura?

12 A Manabe.

13 Q Anyone else?

14 A The person I get -- I have to get advice from or I
15 instruct -- instructions from or --

16 Q Correct.

17 A Oh, basically, those two, either Nakamura or Manabe.

18 Q What is Mr. Manabe's first name?

19 A Tadashi.

20 Q You tell me you don't own a home in California. Do you
21 rent a home in California or an apartment?

22 A Apartment.

23 Q Where?

24 A Palo Alto.

25 Q Does your family always stay in Japan as far as a
26 residence? If you have children, are your children in
27 Japanese schools, or do they spend part of the year in the
28 United States also?

1 A They come here once in awhile to visit, yeah, on summer
2 vacation or whatever.

3 Q I see.

4 Q Are you also a director of NAMCO, Ltd.?

5 A Yes.

6 Q Do you have any research and development responsi-
7 bilities, either in your position in charge of overseas
8 matters or as a director of NAMCO, Ltd.?

9 A No.

10 MR. SPRINGER: Research and development in what
11 sense? We have talked about it already in the sense of
12 marketing and sales, and I think as distinct from
13 technological.

14 Q (By Mr. Alesia) Technological is what I am asking,
15 development of games.

16 A No.

17 Q Are you a director also of NAMCO-AMERICA?

18 A Yes.

19 Q Are you a director of Atari Japan?

20 A Yes.

21 Q Does NAMCO, Ltd., have any other subsidiaries other than
22 NAMCO-AMERICA and Atari Japan?

23 A I don't know.

24 Q Is Mr. Nakamura, Masaya Nakamura, also a director of
25 NAMCO, Ltd.?

26 A Yes.

27 Q Is he also a director of NAMCO-AMERICA?

28 A I don't think so, but I am not sure.

1 Q Is he also a director of Atari Japan?

2 A Yes.

3 Q Has NAMCO, Ltd., gone public or is it still a private
4 corporation?

5 A Still a private corporation.

6 Q Is there a game called Kiddie Ride? Have you ever heard
7 of that?

8 A As a name of a game?

9 Q Yes.

10 A No.

11 Q Coin-operated game.

12 A That's not the name of a game. That's a -- Kiddie Ride is
13 one category of coin-operated games.

14 Q I see. That's --

15 A Like video games.

16 Q I see.

17 A Like pinball games.

18 Q What do you mean by the term Kiddie Ride?

19 A Oh, you -- I mean, the kids gets on, and -- well, they
20 have all different kind of figure, could be a horse; could be
21 a cow, could be a pig, could be anything.

22 Q More like an amusement game that you would see at a
23 carnival, that type of situation?

24 A Well, the one that you see -- yeah, some of them are like
25 that, but some of them are ones that you see in front of the
26 supermarket here in America.

27 Q Retail stores where you put a coin in?

28 A Yeah, and the little thing goes up and down, up and down.

1 Q Is NAMCO, Ltd., involved in the manufacture of those? 30
2 A Yes.
3 Q Is NAMCO-AMERICA?
4 A No.
5 Q Atari Japan?
6 A No.
7 Q In addition to the individuals that you told me --
8 yourself and Mr. Nakamura -- who are the other directors and
9 officers of NAMCO, Ltd.?
10 A There are active members and inactive members.
11 Q All right. Tell me their names.
12 A Active members, Nakamura -- Masaya Nakamura, Manabe,
13 Ichikawa, Yokomizo, Kureta, Yanagi Daira, Suzuki. Did I say
14 Yamada?
15 Q I don't believe so.
16 A There must be one or two more, which I don't remember.
17 Q These people that you just named --
18 A Active members.
19 Q -- they are all active members. Who are the inactive
20 members?
21 A Myself and I believe there are one or two more.
22 Q Do you know their names?
23 A No.
24 Q When you use the term "active" and "inactive," please
25 explain to me what you mean.
26 A In Japanese terms, jokin and hijokin. Jokin, direct
27 translation means always working. Hijokin, not always
28 working.

1 Q Okay. The same terms apply to attorneys also.
2 A Glad to know that.

3 But the meaning of jokin means the people who go to
4 company on every-day basis.

5 Q I see.

6 A Hijokin, which I translated inactive or nonactive, are
7 the people who do not go to the company on a daily basis;
8 however, they only go to attend some of the Board of Directors
9 meeting or whenever the companies -- company is called for.

10 Q Would it be fair to say then an active, as contrasted
11 inactive, would be somebody who is either an officer or
12 employee of the company would be active, and somebody that
13 would be similar to an outside director of an American
14 corporation, would be inactive?

15 A No, that's not the definition.

16 Okay. Using your example, well, okay, if a guy is a
17 director of two or more companies and then this guy cannot
18 attend two or three companies at the same time, he must have
19 one company that he has to go to work for on a daily basis.

20 Q I see.

21 A Is that correct? Okay. Then that's -- that's the
22 company that he is -- if he is a director, he is an active
23 director.

24 Q Okay. Who are the directors of NAMCO-AMERICA and
25 officers?

26 A Myself, Nakamura, Ichikawa, Kawakami -- is there anybody
27 else? Maybe one more. I don't know, maybe four.

28 Q Okay. When you go to a Board of Directors meeting for

1 NAMCO, Ltd., do you have the right to vote? Are you a voting
2 director?

3 MR. LIMBACH: Counsel, would you -- I will object to
4 the question as lacking foundation, in that I don't believe
5 you have established that Board of Directors meetings in Japan
6 operate on a voting system, as they do here.

7 Q (By Mr. Alesia) Do they operate on a voting system in
8 Japan?

9 A Supposedly, yes.

10 Q Do you have the right to vote at a NAMCO, Ltd., meeting?

11 A I think so.

12 Q Have you ever exercised that right?

13 A No.

14 Q All right. Precisely, what is the business of NAMCO,
15 Ltd.?

16 A What do you mean by "precisely"?

17 Q What exactly do they do.

18 A Manufacture -- manufacturing, distribution and operation
19 of coin-operated amusement games, in addition to designing of
20 those games.

21 Q And I'll ask you the same question with NAMCO-AMERICA.
22 What exactly is NAMCO-AMERICA's business?

23 A Importing and selling of Japanese-made amusement -- coin-
24 operated amusement games, including NAMCO, Ltd.'s, and
25 assembling and selling of those games and doing some trading
business as other Japanese trading companies are doing.

26 Q Do they import games other than NAMCO, Ltd.'s, games?
27 When I say "they," I am speaking of NAMCO-AMERICA.

1 A Did we?

2 Q Did NAMCO-AMERICA import games into the United States,
3 other than those manufactured and developed by NAMCO, Ltd.?

4 A I believe we did one or two occasions.

5 Q Now, what game was it and who was the manufacturer?

6 A I don't remember.

7 Q Do you recall when it was done?

8 A Early stage of establishment of NAMCO-AMERICA.

9 Q Would that be in 1978 or '79?

10 A '7 -- probably '78.

11 Q Who is Larry Holyok or Holyoke, if he's -- I don't know
12 if it's American or Japanese? I don't know if it's Holyok or
13 Holyoke.

14 A He's an American.

15 Q Who is he?

16 A Oh, God.

17 He worked at NAMCO, Ltd., as a part-timer two or three
18 years ago.

19 Q In what capacity? What area was he in?

20 A He was typist helping, correcting English sentences
21 composed by NAMCO's employees.

22 Q Is he still employed in Japan by NAMCO, Ltd.?

23 A No.

24 Q Do you know where he is now?

25 A No.

26 Q Who is Mitsukaru Ohsawa, Ohsawa.

27 A Say that again?

28 Q I may be mispronouncing his first name. Mitsukaru

1 Ohsawa.

2 A I don't know him.

3 Q How about Hiroki Nakahata?

4 A No, I don't recall his name.

5 MR. KATZ: Excuse me. Could you repeat the last
6 name?

7 MR. ALESIA: Hiroki Nakahata.

8 THE WITNESS: Hiroki Nakahata. Could be some
9 technicians of NAMCO, but I don't remember. No, I don't think
10 so. I don't know.

11 Q (By Mr. Alesia) I asked you about Mr. Ohsawa,
12 O-h-s-a-w-a.

13 A I don't know.

14 Q How about Mr. Hashiguchi?

15 A Yes, I know him.

16 Q And what is his position at NAMCO, Ltd.?

17 A Director of Overseas Division.

18 Q What is his first name?

19 A Ryuji.

20 Q Does he report to you?

21 A No.

22 Q What exactly does he do in his employment for NAMCO,
23 Ltd., as manager of the Overseas Division?

24 A I said director.

25 Q Director, excuse me.

26 A He does all the overseas activities of NAMCO, Ltd.

27 Q To whom does he report? In other words, who is his
28 supervisor?

1 A I don't know. Mr. Nakamura, I would guess.

2 Q Does Mr. Hashiguchi speak English?

3 A I don't think so.

4 Q Does Masaya Nakamura speak English?

5 A In what extent?

6 Q Well, does he understand English?

7 A Yes. Both -- both do.

8 Q They both do?

9 A Yes.

10 Q Do they write and read in English also?

11 A Yes. There is a difference in degrees.

12 Q Yes, I understand.

13 A Right.

14 Q Who is Mr. Tashiro?

15 A Tashiro.

16 Q Tashiro; is that it?

17 A Are you talking about NAMCO's employees?

18 Q Yes.

19 A All those names that you are giving me are NAMCO's
20 employees.

21 Q NAMCO, Ltd.?

22 A Yeah, I know him.

23 Q What is his job position at NAMCO, Ltd.?

24 A He is one of the technicians or engineers -- I don't know
25 his exact title -- of NAMCO, Ltd.

26 Q Is he involved in the technical electronic formulation of
27 games?

28 A I believe so.

1 Q Is he still with NAMCO, Ltd.? 36
2 A According to the best of my knowledge, yes.
3 Q Does he speak English or understand English?
4 A Some, yes.
5 Q Okay.
6 A All Japanese do.
7 Q Well, I know, I realize it's a matter of degree.
8 A Yeah.
9 Q With regard to NAMCO, at the organizational level, you
10 are the president of that company, you told me. Now, does Mr.
11 Wood report to you then directly?
12 A Yes.
13 Q Dennis Wood. He's the general counsel; correct?
14 A Correct.
15 Q And who else reports to you directly besides Mr. Wood?
16 A Most of the managers.
17 Q Of what divisions? Do you have divisions in
18 NAMCO-AMERICA?
19 A Not really. We are in the process of constructing
20 companies, reorganization, so we don't call any group a
21 division.
22 Q Well, are you the -- as president, are you the chief
23 executive officer of NAMCO-AMERICA?
24 A No, I am not.
25 Q Who is?
26 A I have to look at the -- the corporation --
27 Q Is Masaya Nakamura the CEO?
28 A I don't think so.

1 Q Besides --

2 A He maybe is, but I don't think so.

3 Q All right. Besides Mr. Wood, who else reports to you,
4 say, on a daily or weekly basis from NAMCO-AMERICA?

5 A Most of the managers.

6 Q Who are they and what are their job titles?

7 A Ratslaff.

8 Q What's his first name?

9 A Charlotte.

10 MR. SPRINGER: Spelled? Do you know the spelling?

11 THE WITNESS: Charlotte is -- I don't know how to
12 spell Charlotte, but the last Ratslaff, R-a-t-s-l-a-f-f, I
13 think.

14 Q (By Mr. Alesia) And what is his function, at NAMCO
15 Company?

16 A No, it's a she. She. Charlotte.

17 Q She. Oh, Charlotte, you say.

18 A Yes, Charlotte. She is administrative manager, office
19 manager.

20 Q Where, in Sunnyvale?

21 A Yes.

22 Q What are her responsibilities as office manager?

23 A Personnel and administration.

24 Q Who else reports to you, besides her?

25 A Joanne Anderson.

26 Q What is Joanne Anderson's function?

27 A Marketing manager, who sells coin-operated games.

28 Q Who else reports to you?

1 A Ed Anderson.

2 Q Is he any relation to Joanne Anderson?

3 A They're couples, married.

4 Q Husband and wife?

5 A Uh-huh.

6 Q What is his job function for NAMCO-AMERICA?

7 A Production manager, and he is the responsible man of
8 assembling.

9 Q Anyone else report to you directly?

10 A Bernie Liberatore.

11 Q What is Mr. Liberatore's job responsibility?

12 A Controller.

13 Q Anyone else report to you directly?

14 A Justin Heber; Heber.

15 Q Heber?

16 A Yes.

17 Q What does Mr. Heber do?

18 A Helping me in daily basis.

19 Q What, an administrative assistant? Does he have a title?

20 A Yeah, he has a title, but I don't remember what was his
21 title was.

22 Q Okay. Now, are there any subsidiaries of NAMCO-AMERICA?

23 A No.

24 Q How is the company organized? You told me those various
25 individuals report to you. I think you said it's not
26 organized into divisions, it's --

27 A Well, we do not have division -- I mean, any -- any type
28 of group called "division" yet.

1 Q How about departments?

2 A We can say departments or division or section, but we
3 haven't given any specific name to that groups -- to those
4 groups.

5 Q How many employees does NAMCO-AMERICA have?

6 A A little over twenty.

7 Q How many employees does NAMCO, Ltd., have?

8 A Around a thousand.

9 Q How many employees does Atari Japan have?

10 A None. Maybe -- none. Well, employees?

11 Q Yes.

12 A Directors can be considered as employees?

13 Q Well, I was thinking other than directors.

14 A None.

15 Q Who are the directors of Atari Japan?

16 A Hashiguchi, myself, and Masaya Nakamura. Probably one or
17 two more.

18 Q When you go to a director's meeting of NAMCO, Ltd., are
19 there minutes kept of that meeting, a record, a written
20 record?

21 A Yes, I guess so.

22 MR. LIMBACH: Counsel, could we take a morning break
23 for a few minutes?

24 MR. ALESIA: Why don't we quit at noon. We got a
25 late start.

26 MR. LIMBACH: Well, I'd like to break for a minute
27 then.

28 MR. ALESIA: All right.

(Recess taken.)

40

Q (By Mr. Alesia) Mr. Nakajima, can you tell me how NAMCO, Ltd., is organized, as far as divisions or departments?

A There must be about seven to ten divisions, and fifteen to twenty sections under divisions.

Q Can you tell me the names of each division and who is the person in charge of that division?

A I can give you some of the names.

Q All right. Give me some of them as best you can.

A Overseas Division, Mr. Hashiguchi is the director of that division.

R & D, S. Nakamura is the director.

Sales, Ichise, I-c-h-i-s-e, is a director.

Production, I forgot his name.

Sales Division, Endo, E-n-d-o.

Accounting, Suzuki.

Systematic -- Systematic Accounting, Kawakami. And probably several others.

Q How many departments can you give me with the person in charge of that department under each division?

Well department and divisions are the same.

All right. Sections, then.

A I can't give you any. There are so many, and I don't
have direct contact with them.

Q All right. Is there some place where there's a printed organizational chart of NAMCO, Ltd.?

A Yes.

Q And is that also true of NAMCO-AMERICA?

1 A I think so.

2 Q And Atari Japan, do they have an organizational chart
3 also?

4 A No. I told you, there is no employee.

5 Q It's just strictly directors; okay.

6 Do you want to break now?

7 (Whereupon, at 11:50 a.m. the deposition
8 of Hideyuki Nakajima was recessed for
lunch.)

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1 AFTERNOON SESSION

42

2 Resumed: 1:15 p.m.

3 RESUMED EXAMINATION BY MR. ALESIA

4 MR. YIN: Before we begin, I would like to make a
statement.

5 There has been a protective order entered into this case
6 regarding the production of some of the documents by NAMCO-
7 AMERICA. And I apologize for the poor photocopying of some of
8 those documents, but the designation apparently has not come
9 out in some of those documents.

10 So for the record, documents that are numbered 001 to
11 1165, are not stamped at all with any kind of designation.

12 From 1166 to 1 --

13 MR. ALESIA: Excuse me. Can you give me that first
14 sequence of numbers?

15 MR. YIN: Just the beginning. 001.

16 MR. ALESIA: To what?

17 MR. YIN: To 1165, inclusive of 1165. And from 1166
18 to 1201, inclusive of those numbers; they are designated as
19 confidential, pursuant to the protective order.

20 And from 1202 to 1683, again inclusive of those numbers,
21 those documents are identified -- are stamped as sensitive-
22 confidential. Okay.

23 MR. LIMBACH: What are the last numbers?

24 MR. YIN: 1202 to 1683.

25 MR. BRIODY: So 1 to 1165 are not confidential or
26 sensitive.

27 MR. YIN: That is correct, to 1165.

28 MR. ALESIA: Okay.

1 MR. YIN: That's it.

2 Q (By Mr. Alesia) Mr. Nakajima, you previously testified
3 that in an average year, approximately half of your time is
4 spent in Japan and half your time is spent in the United
5 States.

6 MR. LIMBACH: Counsel, I believe he testified about
7 that or maybe sixty percent in Japan, forty percent in the
8 United States.

9 MR. ALESIA: Right.

10 Q (By Mr. Alesia) When you are in the United States, what
11 function or what duties do you perform for NAMCO, Ltd.?

12 A When?

13 Q While you are in the United States.

14 A All those five years? I mean, all those ten years or
15 what?

16 Q The time that you are in the United States for NAMCO-
17 AMERICA, what work do you do for NAMCO, Ltd.?

18 A Working for NAMCO, Ltd., I was negotiating with various
19 American companies to purchase some of their games, and for
20 them to purchase some of NAMCO's games. That's my prime
21 business for NAMCO Japan.

22 Q In addition to that, do you do anything for NAMCO, Ltd.,
23 while you are in this country, with regard to exploring the
24 marketing possibilities of NAMCO, Ltd., games in the American
25 market?

26 A I would like to ask you a question, with regard to your
27 question.

28 Q All right. Go ahead.

1 A When a car dealer called XYZ, is selling General Motors
2 car, is he working for General Motors or is he working for XYZ
3 dealer?

4 Q Well, I think that's the crux of what we are talking
5 about here. When you are in the United States, do you perform
6 any marketing duties for NAMCO with regard to what, in your
7 opinion, would sell on the American market for NAMCO, Ltd.?

8 A No -- nonvideo games, yes, I was working on behalf of
9 NAMCO, Ltd.

10 Q And what type of nonvideo games are you speaking of?

11 A In early stage of NAMCO-AMERICA, or somewhere around the
12 time that NAMCO-AMERICA was established, I was trying to
13 market a game called F-1 and Shoot-Away, and maybe some other
14 games too.

15 Q What steps or what would you do to make a survey or how,
16 in your judgment, would you determine what NAMCO, Ltd.,
17 product would be a good seller, so to speak, in the United
18 States?

19 MR. SPRINGER: Object. It assumes that there's
20 some sort of general procedure, practice going on, whereas,
21 his testimony has been with regard to a specific effort made
22 some four or five years ago.

23 MR. ALESIA: Go ahead; you can answer the question.

24 THE WITNESS: Oh, since human being, basic human
25 being's concept and desire and what have you are the same, so
26 that the game well accepted in Japan should be accepted very
27 well in the United States. So on that basis, I tried to sell
28 those games, which was well accepted in Japan.

1 Q (By Mr. Alesia) Did you ever commission a marketing
2 survey to be made in the United States with regard to the
3 acceptance of NAMCO, Ltd., products?

4 A Commission?

5 Q Hire a marketing firm or authorize a marketing firm to do
6 work for you.

7 A During the time I was the president of NAMCO-AMERICA?

8 Q Correct.

9 A I don't think so.

10 MR. SPRINGER: Excuse me. Does the question relate
11 to something he had done for NAMCO, Ltd., or for NAMCO-
12 AMERICA?

13 MR. ALESIA: NAMCO, Ltd.

14 THE WITNESS: Oh, NAMCO, Ltd.?

15 MR. ALESIA: Yes.

16 THE WITNESS: No.

17 Q (By Mr. Alesia) All right. Does NAMCO-AMERICA or NAMCO,
18 Ltd., decide which games it will market in the United States?

19 A Would you repeat the question?

20 Q Do you want to read the question back, please?

21 (Whereupon, the record was read by the
Notary Public.)

22 MR. LIMBACH: I will object to the question as being
23 indefinite, because of the word "it" has no definite
24 antecedent.

25 MR. ALESIA: NAMCO, Ltd.

26 MR. LIMBACH: Well, now --

27 Q (By Mr. Alesia) Does NAMCO, Ltd., or NAMCO-AMERICA
28

1 decide which games NAMCO, Ltd., will market in the United
2 States?

3 MR. LIMBACH: All right. Now, I object to that
4 question on the ground that there's a lack of foundation.
5 There's no foundation showing that NAMCO, Ltd., markets games
6 in the United States.

7 Q (By Mr. Alesia) Can you answer that question?

8 MR. LIMBACH: Do you understand the question?

9 THE WITNESS: Not quite. I am trying to figure out
10 your question. Can you rephrase the question?

11 MR. LIMBACH: Then that's the question you don't
12 understand.

13 Q (By Mr. Alesia) All right. Let me ask this question
14 instead and strike that question.

15 Does NAMCO, Ltd., or NAMCO-AMERICA determine which game
16 will be marketed in the United States?

17 A Mainly NAMCO, Ltd., but still a joint effort.

18 Q Okay. Who makes the determination for NAMCO, Ltd.?

19 A A meeting. There is no individual person who -- who
20 makes the decision.

21 Q All right.

22 Q Who would be at that meeting? Mr. Nakamura?

23 A Yes.

24 Q Would you be at that meeting also?

25 A Most of the time, yes.

26 Q And who else?

27 A Depends on the kind of meeting and the when and the what.

28 Q Would it be a representative from your Sales or Marketing

1 Department, generally speaking?

2 A Yeah, generally speaking, yes.

3 MR. SPRINGER: I object. When you say "your," do
4 you mean NAMCO, Ltd., or --

5 MR. ALESIA: NAMCO, Ltd.

6 Q (By Mr. Alesia) Now, you mentioned it might be a joint
7 decision or some input from NAMCO-AMERICA. Who would make the
8 recommendation at the meeting from NAMCO-AMERICA?

9 A Nobody.

10 Q All right. When you would attend the meeting, would you
11 be there in your capacity as an official of NAMCO-AMERICA,
12 NAMCO, Ltd., or a combination of both?

13 A NAMCO-AMERICA.

14 Q Do you make ongoing recommendations to NAMCO, Ltd., in
15 your capacity as an executive or president of NAMCO-AMERICA,
16 as regards to which games you feel would be acceptable in the
17 American market?

18 A Do I make a recommendation?

19 Q Yes.

20 A No.

21 Q Who would make that recommendation from NAMCO-AMERICA?

22 A Nobody.

23 Q With regard for the marketing of games in the United
24 States, is there anyone other than yourself that would have
25 any input to NAMCO, Ltd.?

26 A Input of what?

27 Q As to the feasibility of a NAMCO, Ltd. game being a
28 seller in the United States.

1 A It is going to me, in most of the case, yes.

2 Q In the cases other than you, who else from NAMCO-AMERICA
3 would make that recommendation?

4 A Anybody from Overseas Department—I mean, Division.

5 Q And who heads that up?

6 A Who?

7 Q Who is in charge of the division?

8 A Mr. Hashiguchi.

9 Q When you said "ours," are you speaking of NAMCO, Ltd.?

10 A Ours? Did I say ours?

11 Q Yes.

12 A When?

13 MR. ALESIA: Do you want to read his answer back.

14 (Whereupon, the record was read by the
15 Notary Public.)

16 Q (By Mr. Alesia) When you use the word "division" in your
17 statement, were you referring to a division of NAMCO, Ltd., or
18 NAMCO-AMERICA?

19 A Division -- when I say division, that is equivalent to
department.

20 Q Okay.

21 A Or you can say section, but according to my definition,
22 division is one big section of a company, any company.

23 Q My question is, which company were you speaking of?

24 A NAMCO, Ltd.

25 Q Limited?

26 A Limited.

27 Q Does NAMCO, Ltd. have any ownership interest in Taito?

1 A I don't know.

2 Q Do you know if NAMCO-AMERICAN has any ownership interest
3 in Taito?

4 A Taito you mean.

5 Q Taito.

6 A No.

7 Q How about Atari Japan?

8 A Does NAMCO-AMERICA has the interest?

9 Q No, does Atari Japan have any interest in Taito?

10 A No.

11 Q Do you know if Atari, Incorporated, does?

12 A I don't know.

13 Q Okay. Do you know if Bally/Midway does?

14 A I don't know.

15 Q Okay. Does NAMCO, Ltd., have any ownership interest in
16 Sega? .

17 A I don't know.

18 Q Do they have any ownership interest in any other Japanese
19 company in the coin-operated or home-video game area?

20 A I don't know, other than Atari Japan or NAMCO-AMERICA.

21 Q Yes, other than the ones we have spoken about.

22 A I don't know.

23 Q Does Warner Communications have any ownership interest in
24 NAMCO, Ltd.?

25 A Yes.

26 Q What is their interest?

27 MR. SPRINGER: Objection. No foundation.

28 THE WITNESS: Interest means some kind of a share

1 or --

50

2 Q (By Mr. Alesia) That's right. Some type of ownership.
3 A Yes, they have some typed -- some kind of a share, some
4 small percentage of the share.

5 Q Do you know what the percentage is?
6 A No.

7 Q Does Warner Communications have any ownership interest in
8 NAMCO-AMERICA?

9 A No.

10 Q Does Warner Communications have any ownership interest in
11 Atari Japan?

12 A No.

13 Q Have you ever had any meetings or discussions with
14 David -- and I am not sure how you pronounce his name -- Iida,
15 president of Tomy?

16 A No.

17 Q Are you familiar with the cartoon character, Kyutaro?

18 A No.

19 Q K-y-u-t-a-r-o?

20 A I-u?

21 Q K-y:

22 A "U"

23 Q U-t-a-r-o?

24 A Q-Taro.

25 Q Yes.

26 A I have heard about it, yeah.

27 Q Okay. What is that? Is that a cartoon character?

28 A Yes.

1 Q Can you describe to me what it looks like?

2 A It's like the ghost of American -- what, kids wearing
3 sheets over top of your head?

4 Q Uh-huh.

5 A With the two eyes, something like that, (indicating),
6 like that.

7 Q In Japan, is that a comic strip character?

8 A Comic strip? What do you mean by "comic strip"?

9 Q Yes, you know, like they have in the United States, in
10 the newspaper, part of a comic strip where there's different
11 frames.

12 A I don't know. Could be.

13 Q Has that character ever been shown on Japanese
14 television?

15 A Yes.

16 MR. SPRINGER: No foundation.

17 Q (By Mr. Alesia) When was the first time that you saw
18 that on television, that particular character?

19 A Kyutaro? Must be more than ten years ago. Fifteen
20 years, I don't know. Q-Taro. K-u is p-q, like "q".

21 Q Was Puckman on Japanese television prior to the time of
22 any license agreement between NAMCO, Ltd., and Midway?

23 MR. SPRINGER: I will object. It's without
24 foundation.

25 THE WITNESS: No.

26 Q (By Mr. Alesia) How about Paku?

27 A What's Paku?

28 Q P-a-k-u. Am I pronouncing it correctly?

1 A P-a-k-u. Paku?

52

2 Q No?

3 A No.

4 Q Have you ever seen a Pac-Man toy that was manufactured by
5 Tomy?

6 MR. SPRINGER: Object. Vague. Pac-Mans toy.

7 THE WITNESS: When the --

8 MR. LIMBACH: Just a minute. I will object to the
9 question as indefinite. What do you mean by a Pac-Man toy?

10 MR. ALESIA: Mr. Mouth.

11 MR. LIMBACH: Well, would you restate the question
12 in a --

13 MR. ALESIA: Yes.

14 Q (By Mr. Alesia) Have you ever seen a toy manufactured by
15 Tomy called Mr. Mouth?

16 A Have I ever seen?

17 Q Yes.

18 A Yes.

19 Q When was the first time you saw that toy Mr. Mouth?

20 A Two to three years ago, maybe.

21 Q Will you describe to me what it looks like?

22 A It's a little -- what do you call this -- upside down
coffee jug with a round (indicating) bottom or head. When you
23 upside down -- when you put the coffee cup upside down, the
24 bottom would become a head. Right? And the head is round.

25 Q What color is it?

26 A The one I saw?

27 Q Yes.

1 A Black.

2 Q Do you know how it works?

3 A Blue? What?

4 Q How does it work?

5 A He's got -- I mean, that little thing has something, a
6 hand-like thing, like this (indicating), coming out from the
7 body of the upside down coffee cup. And when you place a
8 coin-like thing, some kind of weight -- no. You have to press
9 it down. Press that hand down, and put the coin on the hand.
10 Then the hand comes up, up, up, up, and then throws the coin
11 to the upside down cup, and then by the time coin flies
12 towards the cup, then the part of the cup opens and takes the
13 coin into the cup.

14 Q Do you know when Tomy first introduced that toy in Japan?

15 A Do I know --

16 Q Yes.

17 A -- when?

18 Q Yes.

19 A No.

20 Q Is it a well-known toy in Japan?

21 A Not at all.

22 Q Does NAMCO, Ltd., have any ownership interest in Tomy?

23 A I don't know.

24 Q Does NAMCO-AMERICA?

25 A No.

26 Q Atari Japan?

27 A No.

28 Q Do you know an individual named Toru Iwantani?

1 A Iwantani.

2 Q Iwantani.

3 A Yes.

4 Q Who is he?

5 A Oh, manager -- one of the managers of R & D Department,
6 or division of NAMCO.

7 Q NAMCO, Ltd., or NAMCO-AMERICA?

8 A NAMCO, Ltd.

9 Q Does he speak English? Is he conversant in English?

10 A I don't know.

11 Q Did he have anything to do with the development of
12 Puckman?

13 A I believe so.

14 Q What was his function in the development of that
15 individual?

16 A I don't know.

17 Q To your knowledge, did Tomy ever develop a bank with a
18 Puckman graphic on it?

19 MR. SPRINGER: Vague.

20 MR. LIMBACH: Object to the question as indefinite,
21 without an indication of what you mean by Puckman graphic.

22 MR. ALESIA: Answer the question, please.

23 THE WITNESS: I don't know what you mean by Puckman
24 graphic.

25 Q (By Mr. Alesia) Well, with the symbol Pac-Man on it.

26 A Symbol Pac-Man -- symbol Pac-Man, what do you mean by
27 "symbol Pac-Man"?

28 Q Or Puckman.

1 A What do you mean by symbol Pac-Man. Which one are you
2 talking about?

3 Q The figure Pac-Man or -- and its predecessor, Puckman.

4 A Can you draw picture? I really don't know which Pac-Man
5 are you talking about.

6 Q Round circle with a slant. The Pac-Man or the Puckman.

7 A And what was your question?

8 Q Did, to your knowledge, Tomy ever develop a bank with
9 that symbol on it.

10 A The bank that Tomy developed or produced is no near the
11 shape of the Pac-Man that we, NAMCO -- well, I shouldn't say
12 "we" -- NAMCO, Ltd., originated.

13 Q All right.

14 A Not even close.

15 Q Have you seen the bank? The Tomy bank, have you seen it?

16 A Yes, as I told you.

17 Q Okay. Can you describe what it looks like?

18 A I already described it.

19 Q What color is the graphic or the symbol?

20 MR. SPRINGER: That assumes a fact not in evidence,
21 that there is a graphic or a symbol.

22 THE WITNESS: I saw the actual one, and I described
23 it to you. It was either black or dark blue. It was the

24 first one I saw. But they come in many, many colors.

25 Q (By Mr. Alesia) Okay. Do they come in yellow?

26 A I would imagine so.

27 Q When did you first see that bank?

28 A I already answered that question.

1 Q Refresh my recollection. When did you have --

2 MR. SPRINGER: He doesn't have to reanswer the
3 question.

4 (Discussion off the record.)

5 Q (By Mr. Alesia) When you were talking about the Mr.
6 Mouth game, as contrasted to the bank we have been speaking
7 of, are you saying they're one in the same or are they two
8 separate toys developed by Tomy?

9 A I don't understand your question. You said Mr. Mouth.

10 Q Yes.

11 A Bank. So I described it to you.

12 Q Is there --

13 A Now, you are talking about two different set of a toy?

14 Q Is there a difference between the Mr. Mouth toy and a
15 bank developed by Tomy?

16 A Mr. Mouth.

17 MR. KATZ: The question is lacking foundation.

18 Q (By Mr. Alesia) In your testimony, are you saying
19 they're one and the same?

20 A Mr. Mouth is a name given to the toy, the bank toy, by
21 Tomy.

22 Q I understand.

23 A That's the one I described it to you.

24 Q What you described to me was a bank toy.

25 A Mr. Mouth, yeah.

26 Q Is a bank.

27 A Toy, yeah, that's right, the ones that catches coin-like
28 thing (indicating).

1 Q Did NAMCO ever sell Pac-Man in the United States prior to
2 the Midway lease agreement regarding Pack-Man?
3 A Are you talking about coin-operated games?
4 Q License agreement. I misspoke. Pardon.
5 A Are you talking about the coin-operated game?
6 Q Any type of a Pac-Man game prior to the Midway lease.
7 A No.

8 MR. KATZ: Object to the question as indefinite.

9 MR. ALESIA: Excuse me. License.

10 MR. SPRINGER: Sorry. I didn't hear the answer.

11 MR. LIMBACH: The answer was "no."

12 Q (By Mr. Alesia) Does NAMCO, Ltd., sell or has it ever
13 sold any type of a Pack-Man or Puckman game in the United
14 States?

15 A NAMCO, Ltd.?

16 Q Yes.

17 A No.

18 Q Do you recall on one occasion when a game was sold by
19 NAMCO, Ltd., in the United States to a company called Rockola?

20 A Rockola.

21 Q Rockola; is that it?

22 A I don't think so. No, I was -- I know that I, either
23 NAMCO-AMERICA or NAMCO, Ltd. -- what did I say, either?
24 Neither company sold Pac-Man to Rockola.

25 Q Did you ever sell a Pac-Man or a Puckman game to Rockola
26 through Midway?

27 MR. SPRINGER: It's vague, "you."

28 MR. ALESIA: NAMCO, Ltd.

1 MR. SPRINGER: And, right, what does "through" mean?
2 Does that encompass the license agreement?

3
4 MR. LIMBACH: I will object to the question as being
5 indefinite, as long as you don't explain what you mean by
"through."

6 Q (By Mr. Alesia) Did you ever ship a Pac-Man or Puckman
7 game to the United States to Midway and Midway in turn shipped
8 it to a company called Rockola?

9 MR. LIMBACH: Object to the question as complex.

10 MR. SPRINGER: Plus no foundation.

11 MR. ALESIA: I am trying to explain it to you.

12 MR. SPRINGER: There's no foundation as to what
13 Midway did.

14 THE WITNESS: According to my knowledge, no.

15 Q (By Mr. Alesia) Is NAMCO, Ltd., a member of the Japanese
16 Amusement Machinery Manufacturers Association?

17 A Yes.

18 Q How long has that association been in existence, if you
19 know?

20 A Oh, a year or two.

21 Q Was NAMCO, Ltd., a charter member of that association?

22 A Charter member?

23 Q An original member.

24 A Yes.

25 Q Does that association have trade shows?

26 A Does or -- does?

27 Q Yes.

28 A It does.

1 Q Are they always in Japan or do they have trade shows in
2 other countries?

3 A Always in Japan.

4 Q Does NAMCO, Ltd., show its wares or display its games at
5 the trade show?

6 A Yes. . . .

7 Q Does Tomy do the same?

8 A No.

9 Q Are they a member?

10 A No.

11 Q With regard to an electronic video game, what item in
12 that game makes it unique?

13 MR. KATZ: Objection to the question as indefinite.

14 MR. ALESIA: What component?

15 MR. LIMBACH: I will object to the question as
16 lacking foundation.

17 Q (By Mr. Alesia) Or let me ask you the question: Is it
18 the printed circuit board that makes the game unique?

19 MR. LIMBACH: I will object to the question as
20 lacking foundation.

21 MR. KATZ: I object to the question as indefinite in
22 assuming that there's only one element that makes a game
23 unique. It could be the painted design on the can.

24 Q (By Mr. Alesia) What makes an electronic video game
25 unique?

26 MR. SPRINGER: Still objectionable.

27 MR. KATZ: Object to the question as calling for an
28 expert opinion from this fact witness.

1
2 MR. LIMBACH: I'll advise the witness you don't need
3 to answer that.

4
5 MR. ALESIA: Well, he can answer subject to your
6 objection, if he can. But under Rule 30, you don't have the
7 right to instruct him not to answer.

8 MR. LIMBACH: I have advised him, as his counsel, he
9 doesn't need to answer.

10 Q (By Mr. Alesia) Will you answer the question, please?

11 A Ah, let's see. Oh, it's so difficult to answer.

12 Q Well, is the printed circuit board one of the more
13 important parts of the electronic video game?

14 A Important part of the video game?

15 Q Yes, or component.

16 A Oh, yes, it is a very important part of a video game,
17 printed circuit board is, yes. It's not your question,
18 though.

19 Q Right. The printed circuit board, is that an important
20 component of an electronic video game?

21 A Yes, it is.

22 Q Now, NAMCO, Ltd., does it manufacture printed circuit
23 boards?

24 A What do you mean by manufacture of printed circuit board?
25 Or boards?

26 Q Making the circuit board.

27 MR. LIMBACH: Counsel, by the word "make the circuit
28 board," do you mean manufacture the laminated plastic
component there?

MR. ALESIA: What other components are there?

1
2 MR. LIMBACH: You are including in the circuit
board --

3
4 MR. SPRINGER: Well, is the question, do they make
all of the components of the printed circuit board?
5
6 MR. LIMBACH: I'll pass.

7 THE WITNESS: There may be two thousand components.
And which component are you talking about when you are saying
8 "make"?

9 Q (By Mr. Alesia) Well, do you assemble the component
10 parts in the printed circuit board into a finished board?

11 A NAMCO Japan you mean?

12 Q Yes. NAMCO, Ltd., right.

13 A No.

14 MR. KATZ: I object to the question as being
15 indefinite as to what's meant by "assembled."

16 Q (By Mr. Alesia) Do you export printed circuit boards for
17 the Pac-Man or Puckman game?

18 A Do I?

19 Q NAMCO, Ltd.

20 A Does NAMCO-AMERICA? I mean does NAMCO, Ltd.?

21 Q Limited.

22 MR. LIMBACH: And is the question do they export
23 games?

24 MR. ALESIA: Yes.

25 MR. LIMBACH: Or boards?

26 MR. ALESIA: For Pac-Man or Puckman.

27 MR. LIMBACH: And is the question do they export
28 circuit boards from Japan?

1 MR. ALESIA: Yes.
2

3 THE WITNESS: No.
4

5 Q (By Mr. Alesia) Does NAMCO, Ltd., place serial numbers
6 on their Pack-Man circuit boards?
7

8 A When you say "does," are we doing it now?
9

10 Q Yes.
11

12 A The answer is no.
13

14 Q NAMCO, Ltd.?
15

16 A NAMCO, Ltd., printed -- putting a number on a piece --
17

18 Q Serial number.
19

20 A Serial number on a printed circuit board?
21

22 Q For Pack-Man or Puckman.
23

24 A Right now, no.
25

26 Q Did you ever do it in the past?
27

28 A Oh, yes.
1

2 Q When did you stop doing it?
3

4 A Whenever the production of the Pac-Man PC board ended.
5

6 Q When you were producing them, did you always put a serial
7 number -- "you" being NAMCO, Ltd., -- on the printed circuit
8 boards for Puckman or Pac-Man?
9

10 A I believe so.
11

12 Q Was there any identifying name, either NAMCO, Ltd., or
13 NAMCO-AMERICA, placed on the printed circuit board for Pac-Man
14 and Puckman, in addition to the serial number?
15

16 A I don't know.
17

18 Q Was there ever the circle "C" copyright sign placed on
19 that board in addition to the serial number?
20

21 MR. SPRINGER: No foundation.
22

1 THE WITNESS: I don't know.

2 Q (By Mr. Alesia) Was there ever a year placed on the
3 printed circuit board for Puckman or Pac-Man next to the
4 serial number?

5 MR. LIMBACH: Counsel, when you say "placed on the
6 board," are you including in that recorded in the ROM or do
7 you mean visually printed on the board itself?

8 MR. ALESIA: On the board itself.

9 MR. LIMBACH: Printed on the board.

10 THE WITNESS: Circle "C"?

11 MR. ALESIA: Yes.

12 THE WITNESS: Did you say circle "C"?

13 Q (By Mr. Alesia) A year.

14 A Year? I don't know.

15 Q All right. Were any identifying marks ever put on the
16 ROM in the printed circuit board for Pac-Man or Puckman?

17 MR. LIMBACH: Do you include put on the ROM,
18 recorded in the ROM or only printed on the ROM?

19 MR. ALESIA: Printed.

20 THE WITNESS: Other than the manufacturer's mark of
21 the ROM?

22 Q (By Mr. Alesia) Yes.

23 A I don't know.

24 Q Were there any identifying marks put on the ROM for the
25 printed circuit board of Pac-Man or Puckman that NAMCO, Ltd.,
26 exported?

27 A I don't know.

28 Q After the license agreement was concluded with Midway,

1 did NAMCO, Ltd., supply Midway with circuit boards for Pac-Man
2 or Puckman or did Midway ever make its own Pac-Man circuit
3 boards?

4 MR. KATZ: Objection to the question as indefinite
5 because it's alternative.

6 MR. LIMBACH: Would you ask the question as two
7 separate questions, Counsel?

8 Q (By Mr. Alesia) Do you understand the question?

9 A Would you please repeat it?

10 Q After your license agreement was concluded with Midway,
11 did -- and when I say "your," I mean NAMCO, Ltd. -- did NAMCO,
12 Ltd., supply Midway with circuit boards for Pac-Man or
13 Puckman?

14 A What do you mean by "supply"? In quantity or just one as
15 a sample or what?

16 Q In quantity.

17 A No.

18 Q Did Midway manufacture its own printed circuit boards for
19 Pac-Man or Puckman after the license?

20 MR. KATZ: Objection to the question as lacking
21 foundation.

22 MR. LIMBACH: I will caution the witness to respond
23 to questions of this kind only with your own personal
24 knowledge, where he's asking you if someone else did
25 something.

26 THE WITNESS: When you please ask Midway, I don't
27 know.

28 Q (By Mr. Alesia) You don't know or you don't understand

1 my question?

2 A I did understand your question.

3 Q And your answer is what? You don't know?

4 A This is something that Midway did or Midway didn't, so I
5 do not know.

6 Q Okay.

7 A As the --

8 Q Does NAMCO advertise its products in various countries?

9 A Various countries -- in general?

10 Q Yes.

11 A Yes.

12 Q Besides Japan?

13 A Yes.

14 Q Does it advertise it's products in the United States?

15 MR. LIMBACH: I will object to the question as
16 indefinite, so long as you are not identifying a particular
17 product.

18 MR. ALESIA: Any of its products.

19 THE WITNESS: We had --

20 MR. LIMBACH: And is this --

21 MR. ALESIA: NAMCO, Ltd.

22 MR. LIMBACH: -- advertising by NAMCO, Ltd.? Right.

23 THE WITNESS: NAMCO, Ltd., has.

24 Q (By Mr. Alesia) Has NAMCO, Ltd., advertised Pac-Man in
25 the United States?

26 A I don't think so.

27 Q Are you familiar with a Reply International Directory?

28 Q Have you ever heard of that publication?

1 A Replay? 66
2 Q Yes, excuse me. Replay.
3 A Yes.
4 Q Did NAMCO, Ltd., place a Pac-Man ad in the September '81
5 edition of that publication?
6 A Might have.
7 Q Are you aware they did?
8 A If I see the pages, yeah, I can say this is -- this was
9 NAMCO's or this wasn't NAMCO's or --
10 Q Do you, meaning NAMCO, Ltd., get permission from Midway
11 to place a Pac-Man ad in the United States publication?
12 A When?
13 Q At any time.
14 A At any time?
15 Q Yes.
16 A We usually do.
17 Q Is it written or oral, the permission?
18 A Oral.
19 Q Have you yourself ever sought oral permission from
20 somebody at Midway, in order that NAMCO, Ltd., place an ad for
21 Pac-man in a United States publication?
22 A I might have; but that's three or four years ago, and I
23 don't remember exactly.
24 Q Do you remember who you contacted at Midway to get
25 permission?
26 MR. SPRINGER: Objection.
27 MR. LIMBACH: I will object to the question.
28 MR. SPRINGER: No foundation. No recall that he

1 actually did no.

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2 MR. ALESIA: You can answer the question.

3 THE WITNESS: Do I remember who I contacted?

4 MR. ALESIA: Yes.

5 MR. SPRINGER: If you contacted somebody.

6 THE WITNESS: Oh, either Mr. Marofske or Mr.
7 Jarocki.

8 Q (By Mr. Alesia) Stanley Jarocki and David Marofske?

9 A Yes. If I ever did.

10 Q Has NAMCO, Ltd., ever given a license for Pac-Man to any
11 company with the exception of Midway, outside Japan?

12 A Yes.

13 Q To whom?

14 A Bell-Fruit.

15 Q Pardon?

16 A B-e-l-l Fruit, as fruit, f-r-u-i-t.

17 Q Is that an American company?

18 A No.

19 Q Where are they located?

20 A England.

21 Q England.

22 Any other licenses?

23 MR. SPRINGER: You are talking about NAMCO, Ltd.?

24 MR. ALESIA: Right.

25 THE WITNESS: Might have.

26 Q (By Mr. Alesia) Did you negotiate that license with
27 Bell-Fruit?

28 A Yes.

1 Q When was that license agreement signed?

2 A Either towards the end of the year that Pac-Man was first
3 introduced by NAMCO, or beginning of next year.

4 Q Who was the individual at Bell-Fruit that you negotiated
5 with regarding that license?

6 A One guy's name was Pilkington, P-i-l-k-i-n-g-t-o-n.
7 Another guy is -- was -- I don't remember.

8 Q Was that license with Bell-Fruit for the Pac-Man video
9 game?

10 A Yes.

11 Q Did you execute or sign the license agreement in behalf
12 of NAMCO, Ltd.?

13 A I might have.

14 Q Was NAMCO-AMERICA a party to that license agreement?

15 A I would have to check the agreement.

16 Q Was Midway party to that license agreement?

17 A No, I don't think so.

18 Q Was there anyone else, other than NAMCO and Bell-Fruit,
19 as you sit here today, do you recall being a party to that
20 license agreement?

21 A Are you talking about the coin-operated games of coin-
22 operated video games of Pac-Man; is that correct?

23 Q Yes.

24 A Other than Bell-Fruit and Midway?

25 Q No, other than -- you told me that the license was
26 concluded by NAMCO, Ltd., and Bell-Fruit.

27 A Yes.

28 Q My question is, were there any other parties to that

1 license agreement?

2 A I don't think so, but I have to check the agreement.

3 Q Has NAMCO-AMERICA ever given a license for Pac-Man to any
4 company outside Japan, other than Midway?

5 A Was that the same question?

6 Q Same question, only with regard to NAMCO-AMERICA.

7 A Oh, NAMCO-AMERICA?

8 Q Yes.

9 A Oh. No, I don't think so. You are talking about the
10 coin-operated video games of Pac-Man.

11 Q Right. Right.

12 A Again, I have to check, but I don't think so.

13 Q How about to the home video Pac-Man game.

14 A Yes.

15 Q All right. Who is a party to that license agreement?

16 A Atari, Inc.

17 Q Pardon?

18 A Atari.

19 Q Atari, Inc.?

20 A Yes.

21 Q And was that NAMCO, Ltd., or NAMCO-AMERICA or both?

22 A I think it's both. Again, I have to check.

23 Q When was that license concluded?

24 A I got to see agreement to answer that question. I mean,
to give you an accurate question -- answer.

25 Q Did you negotiate that particular license?

26 A Yes.

27 Q Did you sign on behalf of NAMCO, Ltd., or NAMCO-AMERICA?

28 Q Did you sign on behalf of NAMCO, Ltd., or NAMCO-AMERICA?

1 A I have to see the agreement.

2 Q Is Taito, is that a -- do they hold a license from NAMCO,
3 Ltd.?

4 MR. YIN: For what?

5 THE WITNESS: For what?

6 Q (By Mr. Alesia) Pac-Man in Japan.

7 A In what form?

8 Q Any form, coin-operated or home video.

9 A I don't know.

10 Q To your knowledge, did Taito ever export a Puckman or a
11 Pac-Man to Hawaii?

12 A What was your question? Did I know or did -- did they?

13 Q Yes, did they, to your knowledge, Taito, ever export a
14 Puckman or a Pac-man game to Hawaii?

15 MR. LIMBACH: Mr. Nakajima, he is asking only if you
16 know. All of the questions are limited to whether or not you
17 have personal knowledge.

18 THE WITNESS: Do I know. Do I know. No, I don't
19 know.

20 Q (By Mr. Alesia). Have you ever heard that they did?

21 A I think I did.

22 Q Who told you or who informed you that they did?

23 A There's a lots of rumor in the industry.

24 Q When did you hear that they did? And give me a year.

25 A I cannot give you a year because I don't remember.

26 Q Did Sega ever manufacture any type of a Pac-Man game in

27 Japan?

28 A I don't know.

1

Ward, Ltd., have any type of procedures or safeguards to prevent a Japanese licensee of Pac-Man from exporting a game -- a Pac-Man or Puckman game to the United States?

MR. SPRINGER: That assumes facts not in evidence
that there are Japanese licenses.

THE WITNESS: NAMCO, Ltd., had some kind of protective procedures.

(By Mr. Alesia) Who was in charge of administering that protective procedure?

A I do not know.

Q Under which division or section of NAMCO, Ltd., would such a protective procedure be administered?

A I don't know.

Q Did you yourself have anything to do with that?

A What do you mean by "anything to do with"?

Q Either have someone report to you or you supervise the protective procedure.

A Oh, I never supervised the protective procedures.

Q Does NAMCO, Ltd., have any type of limitation in their foreign licenses which prohibit exporting of, say, Pac-Man or Puckman to the United States?

MR. SPRINGER: Vague.

MR. LIMBACH: I will object to the question as vague and indefinite, as long as you don't have it tied down to any particular agreement or a better identification of what kind of prohibition you are talking about.

MR. ALESIA: Any type of agreement. Any type of

2 MR. LIMBACH: The witness may not have any
3 understanding of any difference between prohibition to export
4 as opposed to a limitation on a grant. And as a result --

5 MR. SPRINGER: It's a trick question.

6 MR. LIMBACH: It's a trick question and I object to
7 it as an indefinite where we have a language barrier in this
8 deposition.

9 Q (By Mr. Alesia) Is there any type of prohibition in any
10 of the foreign licenses which would preclude the exporting of
11 Pac-Man or Puckman games to the United States?

12 MR. LIMBACH: I will further object to the question
13 on the ground of the best evidence rule and the licenses will
14 speak for themselves on that issue. The witness has not been
15 qualified as an expert to interpret those agreements.

16 Q (By Mr. Alesia) You can answer the question.

17 A I have to check all the agreements to answer your
18 question.

19 Q Does NAMCO, Ltd., as a matter of standard procedure,
20 advise any prospective licensee of its license with Midway
21 with regard to Pac-Man or Puckman in the United States?

22 MR. SPRINGER: I would like to hear it again. Could
23 I please have it?

24 MR. ALESIA: Read the question back.

25 (Whereupon, the record was read by the
Notary Public.)

26 MR. KATZ: Objection. The question is indefinite
27 and lacking foundation.

1 MR. LIMBACH: And I will object to it as being
2 complex and certainly not complying with my initial request
3 for questions simple in sentence structure and vocabulary.

4 Q (By Mr. Alesia) Answer the question.

5 A I didn't understand your question.

6 Q After all that prompting, I am sure that you got the
7 answer correct.

8 Who originated the name of Puckman? Is that too
9 complicated?

10 A No, it is not.

11 Q Okay.

12 A Did you say Pac-Man?

13 Q Puckman.

14 A Can you spell?

15 Q P-u-c-k-m-a-n.

16 A NAMCO did.

17 Q NAMCO, Ltd., or NAMCO-AMERICA?

18 A NAMCO, Ltd. P-u-c-k?

19 Q Yes.

20 A Yes.

21 Q Who at NAMCO, Ltd.?

22 A I don't know.

23 Q At what point in time did Puckman become Pac-Man? Did
24 someone at NAMCO, Ltd., change it?

25 MR. KATZ: Objection to the question as lacking
26 foundation and assumptive.

27 MR. SPRINGER: It's compound.

28 THE WITNESS: Who did change it?

1 Q (By Mr. Alesia) Yes.

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2 A There was not any procedure of changing the name from
3 Puckman to Pac-Man.

4 Q Well, my question is: Did anyone at NAMCO, Ltd., change
5 the name, to your knowledge, from Puckman to Pac-Man?

6 MR. KATZ: Objection to the question as assuming
7 there was a change in name. Lacking foundation.

8 THE WITNESS: No.

9 Q (By Mr. Alesia) Is there any substantial difference
10 between Puckman and Pac-Man?

11 MR. SPRINGER: Objection. It's vague, the word
12 "substantial." You mean like as in substantial similarity?

13 MR. LIMBACH: Counsel, are you asking is there a
14 difference between the letters p-u-c-k-m-a-n and --

15 MR. ALESIA: No, the name itself. I understand
16 there's a difference between the letters. I am literate in
17 the English language.

18 MR. LIMBACH: I need to hear the question back then.
19 I think the question is indefinite and was not understood.

20 Q (By Mr. Alesia) Is there any difference between the
Puckman game and the Pac-Man game?

21 A No, it's the same game.

22 MR. ALESIA: Does that clarify it?

23 Q (By Mr. Alesia) Who developed Puckman?

24 MR. SPRINGER: "Developed" is vague.

25 Q (By Mr. Alesia) The game. Who originated, who
developed, who made the Puckman game?

26 A NAMCO did.

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1 Q NAMCO, Ltd., NAMCO-AMERICA?
2 A NAMCO, Ltd.
3 Q Okay. Who at NAMCO, Ltd.?
4 A Some guys in R & D.
5 Q Can you give me their names?
6 A There's a group effort, so I cannot give you one
7 individual's name, but --
8 Q Well, give me members of the group then.
9 A Iwantani, Nakamura.
10 Q Which Nakamura is that?
11 A S. Nakamura.
12 Q Shigeichi, is that how he pronounces his first name?
13 A Shigeichi, S-h-i-g-e-i-c-h-i. And several others.
14 Q Mr. Iwantani, is he an engineer?
15 A What do you mean by "engineer"? With a degree or --
16 Q Yes.
17 A I don't know.
18 Q What specific part in the development of the Puckman game
19 did Mr. Iwantani have?
20 MR. SPRINGER: Objection. No foundation.
21 THE WITNESS: I don't know.
22 Q (By Mr. Alesia) How about with Mr. S. Nakamura?
23 A I don't know.
24 Q What relationship is he to Masaya Nakamura?
25 A He is husband of Mr. Masaya Nakamura's daughter.
26 Q Is he a graduate engineer, Mr. S. Nakamura?
27 A What do you mean by "graduate engineer"?
28 Q Does he have a college degree in engineering or an

1 equivalent?

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2 A I don't know.

3 Q Does Mr. S. Nakamura speak English?

4 A Yes.

5 Q How about Mr. Iwantani?

6 A I don't know.

7 Q Who is Mr. Funaki?

8 A One of the engineers or technicians used to be working at
9 NAMCO, Ltd.

10 Q What is his first name?

11 A I don't know.

12 Q Where is he now?

13 A I don't know.

14 Q But he left NAMCO, Ltd.'s, employment?

15 A I think so.

16 Q In the development of the Puckman game, did Mr. S.
17 Nakamura, Mr. Iwantani and Mr. Funaki, did they all work in
18 the same department or division?

19 A Yes, they were.

20 Q And what department or division was that?

21 A R & D.

22 Q What was Mr. Funaki's area of expertise in the
23 development of the game?

24 A I don't know.

MR. SPRINGER: No foundation.

25 Q (By Mr. Alesia) Who is Kazanori Sawano?

26 A He is one of the managers of R & D Division of NAMCO,
27 Ltd.

1 Q At the time NAMCO, Ltd.'s, R & D develop or Division
2 developed Pac -- Puckman -- who was in charge of that
3 division?

4 A Yokomizo, Y-o-k-o-m-i-z-o.

5 Q And what is Mr. Yokomizo's first name?

6 A I don't know.

7 Q Is he a graduate, university-trained engineer?

8 A I do not know.

9 Q Who is Mr. Nakauna, N-a-k-a-u-n-a?

10 A N-a-k-a-u-n-a? Nakauna. Would you please spell that
11 again?

12 Q N-a-k-a-u-n-a.

13 A I don't know.

14 Q How about Mr. Yasue, Y-a-s-u-e?

15 A Yasue? I don't know.

16 Q Mr. Nintendo?

17 A Nintendo?

18 Q Yes. Do you know who he is?

19 A Not as an individual, no, I don't know him.

20 Q What do you know --

21 A Mr. Nintendo?

22 Q Yes.

23 A No, I don't know him.

24 Q Were there any others in the R & D Department that, other
25 than the ones you have mentioned, worked on the development of
Puckman?

26 A Were there any more? Was that your question?

27 Q Yes. Yes.

1 A Must have been.

2 Q Do you know their names?

3 A No.

4 Q Who did Mr. Yokomizo report to, as chief of the R & D of
5 NAMCO, Ltd.?

6 A Mr. Nakamura.

7 Q Mr. Masaya Nakamura?

8 A Correct.

9 Q Now, Nintendo, is that the name of a company, rather than
10 an individual?

11 A If that's a name of a company, yes, I know the name --
12 the company with that name.

13 Q Did they have anything to do with the development of
14 Pac-Man or Puckman?

15 A No with my knowledge. Best of my knowledge, no.

16 Q What business are they in?

17 A Are they in or were they in, did you say?

18 Q Were they in, if they are not in business any longer.

19 A They are in business even right now.

20 Q Okay. At the time of the -- when the R & D Department
21 was working on Puckman, what business were they in or was it
in?

22 A Nintendo primarily is big playing cards, any kind of game
23 manufacturing company.

24 Q Were they involved in the manufacture of any type of
25 electronic game, either for home use or for coin-op type game?

26 A Yes.

27 Q Does Mr. Iwantani ever come to the United States?

MR. STRINGER: Just for receipt of subpoenas.

Q (By Mr. Alesia) You want to tell me the next date he'll be in?

A Yes.

Q Does he come -- how often in each year does he come?
Does it vary?

A You said did he -- has he ever or did he?

Q Does he come into the United States now?

A Does he?

Q Yes.

A No.

Q How about S. Nakamura, does he ever have occasion to come to the United States on business?

A He has been -- or so I wantani has been here once or twice or three times in the past, but I don't know their future plans are, what there future plans are.

Q Was this on business for NAMCO, Ltd.?

A I don't know. You mean, the ones that they made, the trip?

Q When they came in, these two gentlemen came in from Japan, was that on business for NAMCO, Ltd.?

A Yes.

Q Did they go to NAMCO-AMERICA's headquarters? Did you see them there?

A Yeah, yes.

Q How about Mr. Funaki? Does he ever come to the United States on business for NAMCO, Ltd.?

I don't think so.

1 Q And Mr. Yokomizo, does he ever come to the United States
2 on business? 80

3 A I don't know.

4 Q Did you ever have any discussions with Mr. Iwantani or
5 Mr. S. Nakamura or Mr. Funaki with regard to the origin of the
6 Puckman game?

7 A Discuss -- what do you mean by "discuss"?

8 Q Have a conversation or exchange letters.

9 A No.

10 Q Does NAMCO, Ltd., have any type of a license agreement,
11 or otherwise, with Tomy, regarding the use of Puckman --

12 MR. KATZ: Objection to the question.

13 MR. ALESIA: -- or Pac-man?

14 MR. KATZ: Objection to the question as indefinite
15 as to what is meant by "or otherwise."

16 MR. ALESIA: Or other agreement.

17 MR. LIMBACH: May I hear the question back then?

18 (Whereupon, the record was read by the
Notary Public.)

19 THE WITNESS: Yes.

20 Q (By Mr. Alesia) What is the nature of that agreement?

21 MR. LIMBACH: Counsel, if we're going to get into
22 the details of what the agreements are, I think NAMCO's taking
23 the position that they would like to have the employees of
24 Philips excluded from the discussion.

25 MR. ALESIA: On what basis?

26 MR. LIMBACH: On the basis of the fact that you are
27 getting into confidential business arrangements of the

1 Company.

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2 MR. ALESIA: I don't . . .

3 MR. LIMBACH: And we have designated the license
4 agreements as restricted under the court's confidential order.

5 MR. ALESIA: I don't intend to get into the dollars
6 and cents or percentages of revenue, et cetera, at least at
7 this juncture, with regard to that, if that's what you are
8 concerned about.

9 MR. LIMBACH: I think if we get into the content of
10 the agreements at all, instead of splitting off various parts
11 of them, we would like to assert that protection.

12 Q (By Mr. Alesia) Well, I will just simply ask him for the
13 time being, was this a license agreement between NAMCO, Ltd.,
14 and Tomy, regarding the use of Puckman or Pac-Man?

15 A Some kind of a contract. I don't know whether there was
16 a license agreement or not.

17 Q And did this agreement give Tomy the right to use Puckman
18 or did the agreement give NAMCO the right to use Puckman?

19 A Unless I check the copy of the agreement or the
20 agreement, I cannot answer your question.

21 MR. ALESIA: Mr. Yin, has that agreement been
22 produced?

23 MR. YIN: I think so.

24 MR. ALESIA: Perhaps we'll save that for tomorrow,
25 since we have not had an opportunity to go through the
26 voluminous records that were tendered.

27 MR. BRIODY: Mr. Limbach, I assume you mean North
28 American Philips when you say employees of Philips, because

1 There's no company I know of in the United States that's just
2 known by the name of Philips or North American Philips
3 Consumer Electronics Corp.

4 MR. LIMBACH: I was referring to North American
5 Philips.

6 Q (By Mr. Alesia) Prior to the execution of your license
7 with Midway -- when I say "your," I am speaking of NAMCO,
8 Ltd., -- were there -- well, was there a meeting or a series
9 of meetings between the representatives of NAMCO, Ltd., and
10 Midway?

11 A Are you talking about the Pac-Man agreement?

12 Q Yes.

13 A Yes.

14 Q Was that meeting held in the United States or in Japan?
15 The initial meeting.

16 A Either United States or in Japan.

17 Q Did you have a meeting in Japan in August of 1980 with
18 the representatives of or a representative of Midway,
19 regarding Pac-Man?

20 A I don't remember.

21 Q Did you ever discuss Pac-Man with Mr. Stanley Jarocki in
22 Japan in 1980?

23 A I must have, but I don't remember.

24 Q Did you ever discuss Pac-Man in 1980, with Mr. Marofske
25 of Midway?

26 A I must have, but I do not remember time and place.

27 Q Do you know if Masaya Nakamura had a meeting with Mr.
28 Jarocki in Japan at NAMCO's headquarters in August of 1980?

1 A Might have.

2 Q Did you or anyone else from NAMCO, Ltd., in your
3 presence, make any representation to Mr. Jarocki, Mr. Marofske
4 or anyone else from Midway that NAMCO, Ltd., had developed the
5 Puckman or Pac-Man game?

6 A Either me or anybody from NAMCO --

7 Q Yes.

8 A -- Ltd., have a presentation?

9 Q Made the representation or told either Mr. Jarocki, Mr.
10 Marofske or anyone else from Midway, that you, meaning NAMCO,
11 Ltd., had developed the Pac-Man or Puckman game?

12 A Yes.

13 Q And was that done in person?

14 A What do you mean, "in person"? Just meeting and orally?

15 Q Yes.

16 A Oh, yes, I think so.

17 Q Who from NAMCO, Ltd., made that representation to the
18 Midway representative?

19 A Either me or Mr. Nakamura or together.

20 Q And to whom from Midway was that representation made?

21 A Either Mr. Stan Jarocki -- do you want the spelling of
22 it?
(Discussion off the record.)

23 THE WITNESS: Or Mr. David Marofske or Mr. Hank
24 Ross, R-O-S-S.

25 Q (By Mr. Alesia) When was that representation made, in

26 1980?

27 A 1980 -- must be in 1980, but I have to check the date and

1 the year.

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2 Q Do you recall what time of the year it was?

3 A Somewhere between May to November or somewhere around
4 there.

5 Q At the time the representation was made to the
6 representatives from Midway by either you or Mr. Masaya
7 Nakamura, were there any sublicenses granted by NAMCO, Ltd.,
8 to any Japanese manufacturer in existence?

9 A Any sublicenses granted?

10 Q Yes, or license.

11 A Licenses? Or --

12 Q Yes, license, granted to any Japanese manufacturer with
13 regard to Puckman or Pac-Man.

14 A I don't know. I can't remember.

15 Q During that meeting, was a printed circuit board shown to
16 the Midway representatives?

17 MR. SPRINGER: Which meeting?

18 MR. ALESIA: The meeting he thinks probably took
19 place in 1980, the initial meeting with the Midway
20 representatives.

21 MR. SPRINGER: There's no foundation. He doesn't
22 recall a meeting. All of his testimony has been surmised on
23 the basis of what probably happened.

24 MR. ALESIA: I beg to differ with you. He said he
25 had a face-to-face meeting with representatives of Midway.

MR. SPRINGER: As to which particular meeting,

though, he couldn't put down.

MR. ALESIA: Regarding the development of Pac-Man.

THE WITNESS: We usually show PC board to our
potential licensee at the introduction of any new game, so we
probably did.

Q (By Mr. Alesia) Did you also show them a completed game,
the cabinet, and give a demonstration of how it works?

A We must have shown that to them.

Q Was that, I assume, still the Puckman game; is that
correct? In other words, what I am asking you, with regard to
the completed game that was shown to him, were there Japanese
characters on it?

A There was some -- I don't remember whether or not the
name -- any kind of a name, either in English or in Japanese,
was put on the cabinet at the time of showing the game to
Midway.

Q When you showed a printed circuit board to a prospective
licensee, at that point are there any identifying marks on the
board that have either the NAMCO, Ltd., name, circle "C", the
year or a serial number?

MR. LIMBACH: I will object to the question as being
indefinite, as long as it is not keyed to any particular
showing. Lacks foundation, as far as establishing a uniform
pattern.

THE WITNESS: Okay. In the beginning of the
development of video games, there was no such practice in the
industry.

Q (By Mr. Alesia) Of the circle "C"?

A Circle "C" or a name or serial number, even, according to
my memory.

1 However, at some point in time, the people started to
2 copy original games, and then we are, of course, one of them
3 and the Midway was one and Atari and all those legitimate,
4 honest manufacturers started to put the name of the companies,
5 circle "C" and the year and whatever was necessary to identify
6 the copyright.

7 And I do not recall exactly when that kind of thing
8 started to take place.

9 Q Do you recall if it would have been before or after the
10 meeting with the Midway people regarding Puckman that we have
11 been speaking about?

12 A Oh, no, I cannot recall, because Pac-Man was such a great
13 game and everybody started to copy the game and try to justify
14 themselves, you know, infringers. So either right before
15 Pac-Man or right after the Pac-Man or right in the process of
16 Puck -- Pac-Man marketing throughout the world, we -- I mean
17 that kind of thing started to happen. I don't remember.

18 Q Have you ever seen a Midway Pac-Man game?

19 A Yes.

20 Q What differences, if any, are there between the Puckman
21 game that NAMCO, Ltd., showed Midway and the one that Midway
22 manufactured or distributed in the United States?

23 MR. SPRINGER: Now, wait a second. It's vague. Are
24 you talking about cabinetry, shape of the cabinet or what
25 appears on the screen or both?

26 Q (By Mr. Alesia) Anything. Starting with the cabinet and
27 going right into what appears on the screen.

28 A What was the significant difference?

1 Q Yes.

2 A I don't think there was any significant difference
3 between the original game Pac-Man, which was originated by
4 NAMCO, and the game produced by Midway under our license.

5 Q Were the American characters the same as the Japanese
6 characters in the Puckman game?

7 A What do you mean by "characters"?

8 Q Displayed on the screen.

9 A Yes.

10 Q They were the same?

11 A According to my knowledge.

12 Q Okay. What was Akasuke?

13 A Akasuke?

14 Q Okay. What's that?

15 A The name of the -- the nickname of the ghost of Red.

16 Q The red chase ghost?

17 A Yes.

18 Q In the American game, that's Clyde.

19 A I don't know.

20 (Recess taken.)

21 Q (By Mr. Alesia) Mr. Nakajima, has either Taito or Sega,
22 to your knowledge, ever manufactured a Puckman game in Japan?

23 A Yes.

24 Q Which company, Taito or Sega?

25 A I don't remember, but either.

26 Q When did you first become aware that they had
27 manufactured a Puckman game in Japan?

28 A I don't remember.

1 Q Was it prior or subsequent to your license agreement for
2 Puckman with Midway?

3 A Oh, way after that.

4 Q Did you actually see the game itself?

5 A I believe I did.

6 Q Was it a coin-operated or a home video game?

7 A Coin operated.

8 Q Do you recall any differences between the game that was
9 manufactured either by Sega or Taito, and the Puckman game
10 that was manufactured by NAMCO, Ltd.?

11 A No, either they were identical or very, very close. I
12 never had the chance to take that good a look at the game.

13 Q Do you recall any differences between that game that was
14 manufactured by the other Japanese manufacturer and the one
15 that was subsequently distributed by Midway in the United
16 States?

17 A Would you say that again? I couldn't understand your --

18 Q Were there any notable differences between the Japanese
19 coin-operated game manufactured by either Taito or Sega, and
20 the one that was distributed in the United States by Midway?

21 A No. They were very much the same.

22 Q At the time one of these other companies manufactured
23 such a game, did they have any license agreement with NAMCO,
24 Ltd.?

25 A I don't know. Any licenses, licensing agreement happens
26 in Japan had been taken care of by NAMCO, Ltd., people, not by
27 me; so I do not know.

28 Q Okay. Who would be and who is in charge of licensing?

1 with other Japanese companies in Japan, for your company
2 NAMCO, Ltd.?

3 A I don't remember.

4 Q Who is in charge of doing that same job at present?

5 A Mainly by a man called Mr. Matsunaga, M-a-t-s-u-n-a-g-a.

6 Q How long has he been with NAMCO, Ltd.?

7 A I don't know.

8 Q Was he also a former Atari Japan employee?

9 A No.

10 Q Has he ever worked for NAMCO-AMERICA?

11 A No.

12 Q Was it only one Japanese manufacturer or were there more
13 that manufactured their own Puckman-type games?

14 A What do you mean by "own"?

15 Q Well, or manufactured a Puckman-type game.

16 A You mean were there --

17 Q Was there more than one.

18 A The copiers, are you talking about?

19 Q Yes.

20 A Or --

21 Q Well, either copier or a licensee.

22 A More than one, yes.

23 Q Well, if I understand your testimony correctly -- and
24 correct me if I am wrong -- you are not aware of any licenses
25 from NAMCO, Ltd., to any other Japanese Corporation; is that
correct?

26 A There must have been several or more than several
27 agreements, license agreements, between NAMCO and some other

1 Japanese companies.

10

2 Q Do you know the names?

3 A But I do not know the names, when, with regard to what.

4 Q I take it from your question, there were also infringers
5 that manufactured Puckman or Pac-Man-type games in Japan; is
6 that correct?

7 A All over the world. Not just in Japan.

8 Q But just limiting your answer to Japan; is that correct?

9 A There were many copiers, yes.

10 Q Can you tell me the names of some of those?

11 A No, I cannot. I do not remember.

12 Q Now, after that initial meeting that we previously talked
13 about, perhaps sometime in 1980, where a Midway representative
14 was present with regard to showing of the Puckman game, were
15 there subsequent negotiations regarding the license after that
16 initial meeting?

17 A Would you please repeat that?

18 Q After that first meeting --

19 A Yes.

20 Q -- where, as best you could recall, you thought there
21 was, probably, a game shown to the Midway people and probably
22 a printed circuit board, because that's your usual practice,
23 and they were given a demonstration of the Puckman game, were
24 there negotiations after that time with representatives of
25 Midway?

26 MR. LIMBACH: Counsel, I object to the question,
27 because I believe you mischaracterized the witness' testimony,
28 and part of it may be a misunderstanding. The series of

1 questions you asked about, that you are now referring to as
2 the first meeting, were not identified as the first meeting at
3 that time. And again, the questions were the long, complex
4 questions I've asked you not to use, and the word you used
5 throughout those questions was "representation."

6 And you said was there a representation that NAMCO
7 had created a game, and I am not sure at this point whether or
8 not there was an understanding between you and the witness as
9 to whether or not there was a meeting or whether or not there
10 was a definitive meeting that he recalls, because as one of
11 the other counsel has pointed out, the questions related to
12 some type of something over significant period of --

13 MR. ALESIA: I think you are splitting hairs now.
14 If you are talking about that first -- if you don't want to
15 call it meeting -- when people were in a room and representa-
16 tions were made, I don't know how you can construe it other
17 than a meeting.

18 If you would like another word, if that satisfies
19 you, if you want to get into a discussion on semantics, I
20 would be happy to do so.

21 MR. LIMBACH: We are not really dealing with
22 semantics. We are dealing with a problem of a communication
23 between English and Japanese.

24 MR. ALESIA: I don't think there's any problem here
25 at all. I think the witness fully understands what I ask him.

26 MR. LIMBACH: I object to your question in the sense
27 that the preamble says the prior testimony shows there was a
first meeting. I don't believe that is --

1
2 MR. ALESIA: There was a first representation. Does
3 that make you happy?
4

5 MR. LIMBACH: That depends on what the understanding
6 of the word "representation" is between you and the witness.
7 And I don't know that there is a ground rule for that yet.

8 Q (By Mr. Alesia) Mr. Nakajima, the first representation,
9 if meeting isn't suitable --

10 MR. LIMBACH: Meeting may be a much better word,
11 Counsel.

12 Q (By Mr. Alesia) Do you recall that that we spoke about
13 previously, when you gave or NAMCO, Ltd., showed Puckman to
14 the representative or representatives of Midway? After that,
15 was there another representation or meeting between NAMCO,
16 Ltd., people and Midway people?

17 MR. LIMBACH: Counsel, I think we may be in trouble
18 by using the word "representation" instead of meeting. And if
19 you'd stick to "meeting," we might be better off.

20 MR. ALESIA: I asked meeting first time around, and
21 you said no. Before it was representation.

22 MR. LIMBACH: No, you didn't ask meeting. You said
23 his prior testimony was meeting and his prior testimony wasn't
24 meeting.

25 MR. ALESIA: All right. Would you prefer, was there
26 a second or was there a meeting after the first representa-
27 tion? Are you happy now?

28 MR. LIMBACH: No, I don't know that you are
communicating yet, but you may work at it.

MR. ALESIA: Well, I'll try and satisfy you as best

1 I can.

2 Q (By Mr. Alesia) Was there a meeting after the first
3 representation?

4 A Yes.

5 Q All right. Where was that?

6 A I don't remember. •

7 Q Could you say it was in the United States or Japan?

8 A Either in Japan or in the United States or in Europe,
9 somewhere.

10 Q Who was present?

11 A From NAMCO's side or you can say either NAMCO or NAMCO-
12 AMERICA side, either Masaya Nakamura and myself, one -- either
13 of those two or both together.

14 Q Okay.

15 A From Midway's side, Stan Jarocki, David Marofske and Hank
16 Ross, either one of those three or two of those three or three
17 altogether.

18 Q What was the date of that meeting?

19 MR. LIMBACH: I object to the question as lacking
20 foundation. I don't think you have established there was a
21 meeting.

22 Q (By Mr. Alesia) What was the date of that meeting?

23 A I do not remember.

24 Q Okay. Do you recall what was discussed at that meeting?

25 MR. LIMBACH: Object. Same objection to the
26 question.

27 THE WITNESS: Oh, what is your name again?

28 MR. ALESIA: Alesia.

1 THE WITNESS: Malesia?

2 MR. ALESIA: Alesia.

3 THE WITNESS: Okay.

4 this is what we usually do to finalize any kind of agreement.

5 Q (By Mr. Alesia) When you say "we," are you speaking of
6 NAMCO, Ltd., NAMCO-AMERICA?

7 A "We" meaning NAMCO-AMERICA and NAMCO, Ltd., together.

8 Q Okay.

9 A Okay? And sometime we have to have ten different
10 meetings to reach an agreement; sometimes maybe three or four.
11 And I do not remember in what occasion, where, and what time
12 we discussed what kind of subject, because it's always the
13 series of meeting.

14 Q Okay.

15 A And --

16 Q Is it your practice to have a series of meetings with
17 NAMCO, Ltd., and NAMCO-AMERICAN people, before you have a
18 meeting with the third party, the potential licensee?

19 A Oh, no. Well, yes and no.

20 I talk with some NAMCO people, like I testified awhile
21 ago. And prior to license negotiation with potential
22 licensee, then either me or Mr. Nakamura, or together, meet
23 with people from potential licensee. And then that kind of
24 meeting will be taking place continuously, sometimes three
25 meetings, four meetings, ten meetings.

26 Q Was that generally the same format that was followed
27 prior to the execution of the license for Puckman?

28 A "Execution" means signing?

1 Q Signing, yes.

95

2 A Yes, In general, yes.

3 Q Once the license agreement with Midway and your company
4 for Puckman or Pac-Man was concluded, did NAMCO or NAMCO-
5 AMERICAN furnish the completed game or the ROM or the printed
6 circuit board to Midway?

7 A Well, I do not -- I cannot say either right after the
8 execution of the agreement or right around that time, yes.

9 Uh-huh.

10 Q When it started, in other words, when the first steps by
11 your company were taken to implement the agreement, did you
12 furnish completed games to Midway or just the ROM or printed
13 circuit board to Midway?

14 A Are you talking about Pac-Man?

15 Q On Pac-Man or Puckman.

16 A Oh, we must have provided them with completed games --

17 Q Did that --

18 A -- together with PC boards and some other necessary
documents for Midway to produce the game.

19 Q And after that time, was there anything else supplied by
20 NAMCO, Ltd. or NAMCO-AMERICA to Midway, with regard to the
21 Pac-Man or Puckman game, under that license?

22 A The designing of Logo and some of the photos of
23 characters.

24 Q Did you ever, or anyone from NAMCO, Ltd., or NAMCO-
25 AMERICA, ever mention or tell the Midway representatives, Mr.
26 Marofske or Mr. Ross or Mr. Jarocki, that you had secured the
27 registration for the copyrights or trademarks in Japan for

1 Puckman or Pac-Man?

2 A What do you mean by "secured the registration"?

3 Q Well --

4 A Made application or go --

5 Q Made application and then it was granted.

6 A The copyright in Japan -- copyright law in Japan does not
7 require for one to register copyright. So we -- I don't think
8 we did register the copyright of the game.

9 Q At that time was there any requirement in Japan that any
10 type of papers be filed with a governmental office to protect
11 the Puckman or Pac-Man game?

12 MR. KATZ: Object to the question as calling for a
13 legal opinion from this lay witness about Japanese law.

14 MR. LIMBACH: If you can answer that --

15 THE WITNESS: I don't remember when, but audiovisual
16 work of Pac-Man was -- which was originated by NAMCO -- was
17 not really registered but applied for recognition -- I don't
18 know whether this is a proper translation or not -- for
19 Japanese -- to Japanese authority, yes.

20 Q (By Mr. Alesia) When was that done?

21 A After the development of Pac-Man game.

22 Q Was it done before the license was signed with Midway for
23 Pac-Man?

24 A I don't remember, but either right around the same time
25 or before or later.

26 Q Who would have possession of any of those documents that
27 were filed with the Japanese authorities with regard to
28 Puckman?

1 A NAMCO, Ltd.

2 Q Who at NAMCO, Ltd., specifically would have that?

3 A I don't know.

4 Q Do you have a corporate secretary or something, some
5 analogous-type position at NAMCO, Ltd., who keeps track of all
6 the corporation papers?

7 A Yes, but I don't know who.

8 Q Do you know what that individual's name is?

9 A No.

10 Q Does NAMCO, Ltd., or NAMCO-AMERICA ever inspect any of
11 the Pac-Man games of Midway for quality?

12 A Yes.

13 Q How often is that done?

14 A How often? I don't know. Probably through the course of
15 licensing execution or exercising, anywhere between three to
16 ten times, I think.

17 Q And whose responsibility would that be, NAMCO, Ltd., or
18 NAMCO-AMERICA to make that type of an inspection?

19 A Primarily NAMCO, Ltd.

20 Q What division or what department or section at NAMCO,
21 Ltd., does that type of inspection work?

22 A I don't really know. No, I don't know.

23 Q Do you know the names of any of the individuals who have
24 done that type of work?

25 A No.

26 Q Do they file written reports, inspection reports?

27 A Are you talking about Pac-Man?

28 Q Yes, limited to Pac-Man.

1 A I don't remember.

2 Q Have you ever seen any inspection reports, quality
3 control reports?

4 A I don't remember it. That's what I am saying.

5 Q In Japan, is the name Puckman or Pac-Man used in any
6 other type of manufactured product, other than coin-operated
7 games?

8 A Now, you say either Puckman or Pac-Man?

9 Q Yes.

10 A Limited only to those names?

11 Q Or Paku.

12 A Paku. Limited to only those three?

13 Q Yes. Yes.

14 A Coin-operated games, other than NAMCO, Ltd.'s?

15 Q Yes.

16 A I cannot answer the question. I don't remember.

17 MR. ALESIA: Do you want to mark this NAMCO
memorandum, dated January 13, 1982, from the witness Mr.
18 Nakajima, to David Marofske as Defendants' plural Exhibit
19 No. 1.

20 MR. SPRINGER: Why don't we start at 200, Jim.

21 MR. ALESIA: Okay. Make it 1 -- strike that.

22 Make this Defendants' Exhibit No. 112.

23 (Whereupon, a two-page NAMCO memorandum,
24 dated January 13, 1983, from Hideyuki
25 Nakajima to David Marofske was marked
Defendants' Exhibit No. 112 for
identification.)

26 MR. SPRINGER: Jim, do you have a copy of it so I
27 can see?

1 Q Do you remember who was in attendance at that meeting?
2 A No, I do not.
3 Q Was Mr. Marofske?
4 A Obviously.
5 Q Was Mr. Jarocki?
6 a I don't remember.
7 Q Was Mr. Ross there?
8 A I do not remember.
9 Q Was Mr. Masaya Nakamura there?
10 A I don't remember.
11 Q In return for Bally's, or Midway's, agreeing to grant
12 back to NAMCO the motion picture, television and book rights
13 of Pac-Man, what, if anything, did NAMCO-AMERICA or NAMCO,
14 Ltd., agree to do for Midway?
15 A "In response to your company's gesture of good will and
16 good faith, we are pleased to give you the first right of
17 refusal for the video games outlined in the attached
18 memorandum," the letter says.
19 Q Okay. In that memorandum, when you mention NAMCO, was
20 this NAMCO, Ltd., or NAMCO-AMERICA or both that you were
21 speaking of?
22 A Well, I don't have the memorandum.
23 Q No, I am speaking of the first -- neither do I. These
24 were documents that were produced from Midway with no
25 memorandum attached.
26 A Uh-huh.
27 Q And line 1 says, "I appreciate your agreeing to grant
28 back to NAMCO . . ."

1 A Yes.

2 Q Which NAMCO are you speaking of, NAMCO, Ltd., or NAMCO-
3 AMERICA, or both?

4 A Must be NAMCO-AMERICA.

5 Q Okay.

6 A Well, anyway, the major portion must be for NAMCO-AMERICA
7 and some portion for NAMCO.

8 Q For NAMCO, Ltd.?

9 A NAMCO, Ltd., probably.

10 Q What did you mean with regard to the sentence that you
11 wrote, "We are pleased to give you the first right of refusal
12 for the video games"?

13 A What?

14 Q What did you mean by that sentence?

15 A I don't know. What did I mean by this sentence?

16 Q Yes.

17 A Just like it says. What was your question again?

18 Q What did you mean when you used the term, ". . . the
19 first right of refusal for the video games"?

20 A First right of refusal for the video games.

21 Q And this would be to both NAMCO-AMERICA and NAMCO, Ltd.?

22 It would concern both of them? They would both give the first
23 right of refusal?

24 A Oh, okay. Parties of the agreement were Midway and
25 NAMCO, Ltd., and NAMCO-AMERICA collectively called licensor,
26 so it could be either.

27 Q Can you give me an example of how you would give Midway
28 the first right of refusal?

1 MR. KATZ: Objection to the question, as asking a
2 hypothetical question and speculating as to what he would
3 have -- what he would do, rather than what he did.

4 THE WITNESS: Could you repeat it?

5 Q (By Mr. Alesia) Can you give me an example, when you say
6 or said to Mr. Marofske that you would give Midway the first
7 right of refusal, how this would take place?

8 MR. KATZ: Objection to the question as assuming he
9 had anything in mind.

10 MR. LIMBACH: Yes, Counsel, what are we doing here?
11 The document speaks for itself. We have a witness who is very
12 tired from a difficult communication experience between
13 English and Japanese. And --

14 MR. ALESIA: Counsel --

15 MR. LIMBACH: -- I don't see what you are after.
16 You have an exhibit. What do you want?

17 MR. ALESIA: The only one who's having a
18 communication problem seems to be you and I. The witness and
19 I are doing just fine.

20 MR. LIMBACH: I think the record shows to the
21 contrary.

22 MR. ALESIA: I want to know when he wrote that what
23 he meant by that.

24 MR. LIMBACH: And he said and he meant and he read
25 you the words.

26 MR. ALESIA: And then I asked him of how an example
27 might take place.

28 MR. LIMBACH: We can go on like that forever. We

1 are not going to get anywhere.

2 MR. ALESIA: That's just one question. We aren't
3 going to go on everywhere.

4 Q (By Mr. Alesia) Would you answer the question, please?

5 A The first right of refusal is the first right of refusal.

6 Q Can you give me an example of what you meant, how would
7 that take place, how would that occur?

8 A I don't remember.

9 Q Directing your attention to Page 2, the last -- next to
10 the last paragraph, you indicated, "It would be very much
11 appreciated if you would keep the matter regarding NAMCO's
12 granting the first right of refusal to Midway highly
13 confidential."

14 Why did you want this kept confidential?

15 A This is the thing between the two companies. I mean,
16 this is the thing where you deal between the two companies,
17 why one would like to go out and not make a big announcement.
18 that's not my way of doing business, and it's perfectly okay
19 to ask somebody to keep it confidential. That's all it's
20 doing.

21 Q Did you consider this to be a modification of the
22 original license agreement between NAMCO and NAMCO-AMERICA and
23 Midway?

24 A I cannot answer that. Your question is a very
25 professional one. And if you would like to ask that kind of
26 question, please ask our attorneys who are the experts of the
27 legal matters.

28 Q Well, at the time the original license between NAMCO and

1 NAMCO-AMERICA and Midway was signed, did either NAMCO, Ltd.,
2 or NAMCO-AMERICA reserve any rights at all in the Pac-Man or
3 Puckman name or usage?

4 MR. LIMBACH: I will object to the question as
5 calling for the legal conclusion of the witness. The
6 documents speak for themselves.

7 THE WITNESS: We have an agreement between Midway
8 and NAMCO, Ltd., and NAMCO-AMERICA, in the beginning of the
9 Pac-Man agreement, and if you read it -- if you can read it,
10 then everything is stated as -- everything stated in that
11 agreement is the truth. And if the agreement says that NAMCO
12 still obtains some of the rights, then we did.

13 Q (By Mr. Alesia) - Was there any oral understanding, in
14 addition to the written license agreement, between NAMCO,
15 NAMCO-AMERICA on one hand and Midway on the other hand?

16 A Oral agreement between NAMCO and NAMCO-AMERICA?

17 Q No, between NAMCO-AMERICA and NAMCO, Ltd., on one side
18 and Midway on the other.

19 A With regard to Pac-Man?

20 Q Yes.

21 A Was there any oral agreement? I don't remember.

22 Q Do you know who at NAMCO-AMERICA or NAMCO, Ltd., would
23 know if there was any oral agreement between NAMCO-AMERICA and

24 NAMCO, Ltd., on one side and Midway, with regard to the use of
the Puckman or Pac-Man name?

25 A Besides me?

26 Q Yes.

27 A No, I cannot think of anybody.

28 WILLIAM TALTY C.S.R. A PROFESSIONAL CORPORATION
164 NORTH BASCOM AVENUE SAN JOSE, CALIFORNIA 95128 (408) 288-5170

1 MR. ALEZIA: Would you mark this as Defendants'
2 Exhibit one hundred and thirteen?

3 (Whereupon, a two-page letter, dated
4 February 13, 1982, from Hideyuki Nakajima
5 to David Marofske on the NAMCO-AMERICA,
6 Inc., letterhead was marked Defendants'
7 Exhibit No. 113 for identification.)

8 Q (By Mr. Alesia) Mr. Nakajima, I show you what has been
9 marked as Defendants' Exhibit one hundred and thirteen. The
10 numbering at the bottom is 05472 and 05473, a letter dated
11 February 13, 1982, from you to Mr. David Marofske on the
12 NAMCO-AMERICA, Inc., letterhead.

13 Would you please read that.

14 A Yes, I read it.

15 Q Did you send that letter to Mr. Marofske?

16 A I must have.

17 Q And with regard to paragraph 1 in that letter, what
18 prompted you to call Mr. Marofske while he was in Bologna,
19 Italy on January 26th, 1982?

20 A What? What?

21 Q What was the reason for calling Mr. Marofske?

22 A To communicate with him.

23 Q And for what reason?

24 A Concerning -- well, just like it says, concerning the
25 January 2, 1982 memorandum between Midway and NAMCO, Ltd., and
26 NAMCO-AMERICA.

27 Q Did you have a discussion regarding an agreement wherein
28 Midway, through Mr. Marofske, agreed to grant back to NAMCO,
Ltd., and NAMCO-AMERICA motion picture and book rights to
Pac-Man, and in turn that NAMCO, Ltd., and NAMCO-AMERICA would

1 give the first right of refusal for the video games to Midway?
2 A What was the first part of your question?
3 Q Was the conversation regarding the agreement that you had
4 made with Mr. Marofske, wherein, NAMCO would be given --
5 NAMCO, Ltd., and NAMCO-AMERICA would be given --
6 picture, television and book rights to Pac-Man from Midway,
7 and in return, NAMCO, Ltd., and NAMCO-AMERICA would give the
8 first right of refusal for the video games to Midway?

9 MR. LIMBACH: Counsel, I will point out again, you
10 are using awfully long, complex questions with the language
11 barrier.

12 MR. ALESIA: My question was a paraphrase of a
13 handwritten letter from Mr. Nakajima to Mr. Marofske, so I
14 assume it's not too complex, if he wrote it.

15 MR. LIMBACH: You have a high fog factor in the
16 question, Counsel. I think if you avoid maybe paraphrasing
17 the letter and sticking to the direct questions, that might --

18 MR. ALESIA: That must be a local phrase, "high
19 fog." I am not acquainted with that.

20 MR. WILLIAMS: It's worse if it's low fog.

21 MR. LIMBACH: The fog factor is directly
22 proportional to the number of words in the question.

23 Q (By Mr. Alesia) Was that the substance of your
24 conversation in Italy by phone with Mr. Marofske?

25 MR. LIMBACH: What's the word that refers to,
26 Counsel? The sentence in Exhibit 113 or a sentence in Exhibit
27 112 or the existence of 112?

28 MR. ALESIA: The granting back to NAMCO-AMERICA and

1 NAMCO, Ltd., the picture, TV and book rights to Pac-Man and
2 the granting of first right of refusal to Midway.

3 MR. LIMBACH: I object to the question. I don't
4 understand that you have a definitive question on the table.

5 Q (By Mr. Alesia) My question is: Was that the substance
6 of the conversation.

7 MR. SPRINGER: Substance, rather than subject.

8 MR. ALESIA: Both.

9 Q (By Mr. Alesia) All right. Let me ask you, Mr.
10 Nakajima, when you talked to Mr. Marofske on January 26th,
11 1982, by telephone, when he was in Bologna, Italy, did you
12 discuss the granting to NAMCO of the motion picture,
13 television and book rights to Pac-Man?

14 A From Midway?

15 Q Yes.

16 A Oh, I probably did.

17 Q Did you also discuss the granting of first right of
18 refusal from NAMCO, Ltd., and NAMCO-AMERICA to Midway during
19 that same telephone conversation?

20 A I don't remember. But anything concerning this letter
21 (indicating) dated January 13, was discussed on January 26th.

22 Q In your letter of February 3rd, 1982, is the January 13,
23 1982 memorandum the subject of your discussion?

24 A January 12th, 1982, this one?

25 Q Yes.

26 A Oh, this is 13th. Oh --

27 Q Was that a typographical error? Did you mean January 13

28 Q or is there another January 12, 1982 memorandum that hasn't

1 been produced?

2 A I don't know.

3 168
4 MR. ALESIA: Mr. Katz, is there a January 12, 1982
5 memorandum that has not been produced?

6 MR. KATZ: I don't know. Not that I know of. I
7 don't know exactly what was produced. Whatever was produced,
8 was produced. I don't know.

9 Q (By Mr. Alesia) Was your conversation with Mr. Marofske
10 a long distance telephone --

11 A Oh, this has to be typographical error.

12 Q So the --

13 A Or -- yes. This is 13 and this is 12.

14 Q All right. So the subject matter contained in Exhibit
15 No. 112 was discussed with Mr. Marofske on January 26th, 1982;
16 is that correct?

17 A Is that correct. I have to presume so.

18 Q Now --

19 169
20 MR. KATZ: Is it possible that there was a January
21 12th memorandum that was produced, but which you didn't note
22 in the production?

23 170
24 MR. ALESIA: No, there is no January 12, 1982
25 memorandum that was produced.

26 171
27 MR. KATZ: Jim, do you recall seeing a January 12?
28 I think you did the document inspecting.

29 172
30 MR. ALESIA: No, I did the document inspection.

31 173
32 MR. WILLIAMS: There were a number of people
33 involved in the document inspection.

34 174
35 MR. KATZ: Is that the document inspection that was

1 done in our office? Correct?

2 MR. WILLIAMS: That's correct.

3 Q (By Mr. Alesia) You told me that the January 13 and
4 the --

5 A Oh, outlined in the attached memorandums --

6 (Discussion off the record.)

7 THE WITNESS: I don't know. I can't say.

8 Q (By Mr. Alesia) Mr. Nakajima --

9 A Yes.

10 Q -- in the documents we marked Defendants' Exhibit 113,
11 what did you tell Mr. Marofske was null and void?

12 A I don't remember. But by reading these two letters, this
13 letter was -- wait a minute. Okay. My impression, according
14 to my impression, this letter (indicating) was null and
15 voided.

16 Q For the record, when you are saying "this letter," you
17 are referring to the January 13, 1982 memorandum that's been
18 designated --

19 A It doesn't say memorandum, but the letter from me to
20 Marofske dated January 13, 1982.

21 Q Exhibit 112, Defendants' Exhibit 112?

22 A Yes.

23 Q That was what you were referring to in the February 3rd,
24 1982 letter; is that correct?

25 A That's my guess.

26 Q Okay. Now, why did you conclude that that agreement
27 should be null and void?

28 A I don't remember.

1 Q From the time you wrote that letter January 13, 1982, to
2 the time you had the conversation with Mr. Marofske on January
3 26th, 1982, did you discuss any possible violations of
4 American law with anyone, as a result of that understanding
5 contained in Defendant's Exhibit 112, your original letter?
6 A Is your question did I ever -- have I ever talked to
7 somebody concerning our breaching of or breaking American
8 laws?

9 Q Yes, between the time you wrote the January 13, 1982
10 letter and the time that you had the telephone conversation on
11 January 26th, 1982, with Mr. Marofske, when he was in Bologna,
12 Italy.

13 A No. I don't think so.

14 Q Did you ever discuss any breaches of the American anti-
15 trust law with regard to any arrangement that you had with
16 Midway?

17 A No.

18 Q Did you ever discuss any -- with anyone -- any possible
19 violation of the Foreign Corrupt Practices Act as a result of
20 your license with Midway regarding Pac-Man?

21 A Foreign what?

22 Q Corruption Practices Act.

23 A I don't know what -- which law and what kind of law you
24 are talking about, but I don't recall anything that I talked
25 to anybody with regard to possible breaching or infringing or
breaking American laws.

26 Q Why did you determine that this agreement should be null
27 and void?

1 A I don't know.

2 Q Did you make that determination on your own or were there
3 other people that had input, either from NAMCO, Ltd., or
4 NAMCO-AMERICAN, with regard to reaching the conclusion that
5 the agreement should be null and void?

6 A Probably all by myself, because this -- during this time,
7 I was traveling from Europe to England and back to U.S. or to
8 Japan, so I probably didn't have time to consult any -- this
9 kind of matter with anybody. So I have to assume that this
10 decision was solely made by me.

11 Q Subsequent to your letter to Mr. Marofske on February
12 3rd, and your conversation that prompted the letter on January
13 26th of 1982, did you subsequently advise Masaya Nakamura that
14 an agreement had been concluded, and that you had determined
15 the agreement should be null and void?

16 A Okay. Let me rephrase your question.

17 Q Sure. Take your time.

18 A No, let me rephrase your question.

19 Q All right.

20 A Are you saying that the fact that this agreement was
21 agreed between Marofske and me, and this letter February 3rd
22 between Marofske and me have been reported to Nakamura?

23 Q Yes.

24 A Was that your question? I don't think so. I might have.

25 Q Okay.

26 MR. LIMBACH: Counsel, we're down to 4 o'clock. I'd
27 like to break once an hour with this witness, because he has
28 indicated that this is a very tiring experience for him. So

1 when you get to a convenient spot here, would you
2

3 MR. ALESIA: Fine.

4 MR. LIMBACH: -- just take a couple of minutes, but
5 let him have a break.

6 Q (By Mr. Alesia) Did you subsequently discuss the
7 agreement, as outlined in the January 13, 1982 letter, and its
8 rendering null and void after your conversation with Marofski
9 on January 26th, 1982 -- did you subsequently, after it was
10 all over, advise Masaya Nakamura of that?

11 A I don't remember, but I don't think so.

12 Q Did you advise anybody of the agreement and the
13 subsequent termination of the agreement, either at NAMCO,
14 Ltd., or NAMCO-AMERICAN?

15 A I don't remember.

16 MR. ALESIA: Okay.

17 MR. LIMBACH: Let's take a short break, real quick.

18 MR. ALESIA: All right.

(Recess taken.)

19 Q (By Mr. Alesia) Mr. Nakajima, the question of returning
20 some of the rights to Pac-Man that you incorporated in your
21 memorandum or letter, rather, to Mr. Marofske of January 13,
22 1982 --

23 A This one, yeah.

24 Q Yes. Prior to that time, you had written Mr. Marofske
25 with regard to returning these rights, did you not?

26 A Prior to this date?

27 Q Yes.

28 A Did I have any kind of conversation with --

1 Q Either conversation or writing with anybody from Midway,
2 with regard to the return of some of the Pac-Man rights from
3 Midway to NAMCO, Ltd., and NAMCO-AMERICA? *the last two lines*

4 A I think there is -- was.

5 Q Can you tell me the first time that you or anyone that
6 you are aware of from either NAMCO, Ltd., or NAMCO-AMERICA had
7 any discussion, either in person or any correspondence or
8 telephone conversations, with anyone from Midway with regard
9 to the return of some of the Pac-Man rights to NAMCO, Ltd.,
10 and NAMCO-AMERICA?

11 MR. SPRINGER: Jim, are you talking about with reference to DS 112 and 113, that exchange or --

12 Q (By Mr. Alesia) Prior to that. I am asking the first

13 time that subject matter came up, the return of some Pac-Man
14 rights from Midway to NAMCO-AMERICA and NAMCO, Ltd. *Midway*

15 A There must be, yes. *of the Pac-Man Rights to NAMCO, Ltd.*

16 Q When was that, that you had the first contact?

17 A I don't remember. *what do you mean by asking*

18 Q Do you recall anyone else, other than yourself asking
19 Midway to return some of the Pac-Man rights to NAMCO, Ltd., or
20 NAMCO-AMERICA?

21 A You mean an individual or some individual in NAMCO or
22 NAMCO-AMERICA? *me, Mr. Springer, didn't say*

23 Q Correct. *ANSWER would you, Mr. Springer, didn't say*

24 A No, I don't think so. *which is false, and it's unswayed,*

25 Q Okay. *what do Mr. Springer, didn't say*

26 A Other than me, no, I don't think so. *it's unswayed,*

27 Q All right. Prior to your first letter -- the first

1 exhibit that you read, the January 13, 1982 letter to Mr.
2 Marofske, did you ever have any discussions with Masaya
3 Nakamura about returning or having some of the Pac-Man rights
4 returned from Midway to NAMCO, Ltd., and NAMCO-AMERICA?

5 A I must have.

6 Q When was that first conversation?
7 A I don't remember.

8 Q Can you give me the year?
9 A Oh, between sometime in 1982 to 1980 -- no, I am sorry.

10 1980 to 1982.

11 Q Do you recall if there was anyone else present when you
12 had these conversations with Mr. Nakamura?

13 A No, I don't remember.

14 Q Do you know if Mr. Nakamura -- Masaya Nakamura -- ever
15 had any contact, written or oral, with anyone from Midway
16 regarding return of some of the Pac-Man rights to NAMCO, Ltd.,
17 or NAMCO-AMERICA?

18 A Without going through me, is that what you are asking?

19 Q Yes.

20 A Directly between Mr. Nakamura and some of the Midway
21 people?

22 Q Yes.

23 A I don't think so.

24 MR. ALESIA: Would you, Ms. Reporter, please mark
25 this the document number which is 1428, and it's entitled,
26 "Addendum to Pac-Man Agreement," sent to Mr. Nakajima.

27 (Whereupon, a one-page document entitled,
28 "Addendum to Pac-Man Agreement" sent to
Mr. Nakajima was marked Defendants'

Exhibit No. 114 for identification.)
Q (By Mr. Alesia) Mr. Nakajima, I tender you what has been
marked as Defendants' Exhibit No. 114 and ask that you read
it.

that? MR. SPRINGER: Jim, do you have another copy of

MR. ALESIA: This was a copy that was produced
today. I don't have any copies.

(Discussion off the record.)

MR. YIN: I think that's a Sensitive Confidential
document.

MR. LIMBACH: That's a Sensitive Confidential
document, Counsel, so we would want to have the Philips people
excluded during the discussion of the content of this.

MR. ALESIA: Any objection?

MR. BRIODY: I will go make a phone call.

MR. ALESIA: This will be very short.

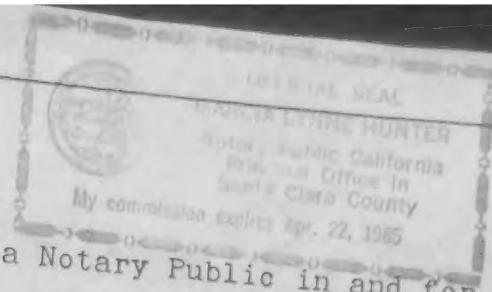
(Whereupon, Mr. Briody left the deposition
room.)

(Whereupon, the following pages 116
through 121 of Mr. Nakajima's deposition
were designated Sensitive Confidential and
are bound separately from this portion of
the deposition.)

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

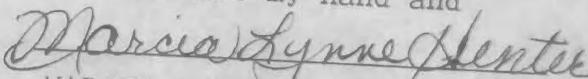
) SS



I, MARCIA LYNNE HUNTER, a Notary Public in and for
the County of SANTA CLARA, State of California, hereby
certify that the witness in the foregoing deposition, named
HIDEYUKE NAKAJIMA, was duly sworn by me to tell the
truth, the whole truth, and nothing but the truth, in the
within entitled cause; that said deposition was taken at the
time and place therein named; that the testimony of said
witness was reported by me, a Certified Shorthand Reporter and
a disinterested person, to the best of my ability, and was
thereafter transcribed into typewriting under my direction
and supervision.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal.

Date: August 24, 1983


Marcia Lynne Hunter
MARCIA LYNNE HUNTER, C.S.R.
License Number C-2801

The signing of the deposition by the deponent was waived
by stipulation at the time of the taking of the deposition.

The deponent personally appeared on the _____ day of
_____, and was given an opportunity to
read the deposition. Thereafter, and upon the same date, the
deposition was signed by the deponent.

Upon completion of the transcript of the deposition, the
deponent was notified that it was ready for signature, but the
deposition was not signed by the deponent for the following
reason:

Deponent did not appear

9-30 83

Monica Duarath

Date: